Board of Behavioral Sciences

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MEETING NOTICE

Policy and Advocacy Committee
April 18, 2013

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd., #N220
Sacramento, CA 95834

9:30 a.m.

I. Introductions*

II. Review and Approval of the January 31, 2013 Policy and Advocacy Committee Meeting Minutes

III. Discussion and Recommendations for Possible Action Regarding Pending Legislation Including:

a. Assembly Bill 186 (Maienschein) – Military Spouses: Temporary License
b. Assembly Bill 213 (Logue) – Licensure/Certification: Military Experience
c. Assembly Bill 252 (Yamada) – Social Workers
d. Assembly Bill 376 (Donnelly) – Regulations: Notice
e. Assembly Bill 512 (Rendon) – Healing Arts: Licensure Exemption
f. Assembly Bill 790 (Gomez) – Child Abuse: Reporting
g. Assembly Bill 809 (Logue) – Healing Arts: Telehealth
h. Assembly Bill 1057(Medina) – Licenses: Military Service
i. Assembly Bill 1372 (Bonilla) – Health Insurance: PDD or Autism
j. Senate Bill 22 (Beall) – Health Care Coverage: Mental Health Parity
k. Senate Bill 122 (Steinberg) – Health Care Coverage: PDD or Autism
l. Senate Bill 282 (Yee) – Confidential Medical Information
m. Senate Bill 322 (Price) – Applied Behavioral Analysts
n. Senate Bill 578 (Wyland) – LMFTs Unprofessional Conduct

IV. Discussion and Recommendations for Possible Legislative Change Regarding Implement Senate Bill 704, Statutes of 2011, Chapter 387 - Examination Restructure.

V. Discussion and Recommendations for Possible Action Regarding Other Legislation Affecting the Board.

VI. Discussion and Recommendations for Possible Action Regarding Therapist Mandated Reporting of Sexual Activity of Minors – Dr. Benjamin Caldwell

VII. Legislative Update

VIII. Rulemaking Update

Governor
Edmund G. Brown Jr.
State of California
State and Consumer Services Agency
Department of Consumer Affairs

IX. Public Comment for Items Not on the Agenda

X. Suggestions for Future Agenda Items

XI. Adjournment

**Introductions are voluntary for members of the public.*

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda. This agenda as well as board meeting minutes can be found on the Board of Behavioral Sciences' website at www.bbs.ca.gov.

NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or by sending a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

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Governor Edmund G. Brown Jr.
State of California
State and Consumer Services Agency
Department of Consumer Affairs

Policy and Advocacy Committee Minutes - *DRAFT*

January 31, 2013

Department of Consumer Affairs
1625 N. Market Blvd., #N-220
El Dorado Room
Sacramento, CA 95834

Members Present
Renee Lonner, Chair, LCSW Member
Dr. Leah Brew, LPCC Member
Dr. Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Staff Present
Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Christina Kitamura, Administrative Analyst

Members Absent
None

Guest List
On file

FULL BOARD OPEN SESSION

I. Introductions

Renee Lonner, Policy and Advocacy Committee (Committee) Chair, called the meeting to order at 11:00 a.m. The Committee, Board staff, and meeting attendees introduced themselves. Christina Kitamura took roll, and a quorum was established.

II. Review and Approval of the November 1, 2012 Policy and Advocacy Committee Meeting Minutes

Christina Wong noted an error on page 1: Renee Lonner *LMFT Member* should be corrected to *LCSW Member*.

Dr. Christine Wietlisbach moved to approve the Policy and Advocacy Committee minutes as amended. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass the motion.

III. Legislative Update

Steve Sodergren reported that all legislative proposals that Board staff is currently pursuing have authors.

Christina Wong expressed concern that the term “assessment” in spousal or partner abuse assessment may be misinterpreted because it is not as broad as “spousal or partner abuse.”

Kim Madsen stated that when the language goes to print, staff will make sure that it is clearly defined.

Ben Caldwell, Association for Marriage and Family Therapy California Division (AAMFT-CA), noted for clarification that the omnibus legislation was approved at the November 2012 Board meeting, not the November 2011 Board meeting as stated in the meeting materials.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), expressed that CAMFT has serious concerns regarding the child custody evaluator legislative proposal.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), expressed that NASW-CA also has concerns regarding the child custody evaluator legislative proposal.

Mr. Caldwell stated that AAMFT-CA shares the same concerns of CAMFT and NASW-CA.

IV. Rulemaking Update

Ms. Madsen provided the updates on the following regulatory packages:

- *Revision of Advertising Regulations, Two-Year Practice Requirement for Supervisors of Associate Social Workers (ASWs), and HIV/AIDS Continuing Education Course for LPCCs*
  This regulation package has been approved by the Office of Administrative Law (OAL) and will become effective April 1, 2013. Staff is working to inform licensees and registrants of these upcoming changes.

- *SB 1111 - Enforcement Regulations*
  The public comment period has ended. The package has been submitted to the Department of Consumer Affairs (DCA) and the State and Consumer Services Agency (SCSA) for review. Once approved by these entities, staff will submit it to OAL for final approval.

- *SB 363 - Marriage and Family Therapist Intern Experience*
  The public comment period has ended. The package has been submitted to DCA and SCSA for review.

- *Disciplinary Guidelines*
  The public comment period has ended. The package has been submitted to DCA and SCSA for review.

- *SB 1441 - Uniform Standards for Substance Abuse*
  This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

- *Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families*
  This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

- *SB 704 - Examination Restructure*
  This proposal is awaiting Board approval.

V. Discussion and Recommendations for Possible Action Regarding Proposed Omnibus Bill Amending Business and Professions Code Sections 4980.36, 4999.33, 4980.43(b), 4996.23, 4999.47(a), 4980.54, 4980.72, 4999.60, 4989.68, 4996.3, 4996.18, 4999.20, and 4999.46

Mr. Sodergren presented the proposed regulation regarding the omnibus bill.

At its November 2012 meeting, the Board approved several technical and non-substantive amendments to the Business and Professions Code (BPC), and directed staff to sponsor legislation to make the proposed amendments that will be included in the annual omnibus bill.

At the November 2012 meeting, there was a request for Board consideration of an additional omnibus bill amendment. This request was to amend the BPC Section 4999.20, scope of practice for Licensed Professional Clinical Counselors (LPCC). The requested change would make the law regarding scope of practice for LPCCs more consistent with the scope of practice law for the Board's other license types.

A few years back, language was inserted into licensed marriage and family therapist (LMFT) law stating that the practice of marriage and family therapy includes the use, application, and integration of the coursework and experience required by law for licensure. This language makes it clear that LMFTs are able to practice what they are taught.

This year, NASW-CA requested a similar amendment to clarify that the scope of practice of licensed clinical social workers (LCSW) also includes the coursework and experience required of them by law.

The Board approved this proposed amendment to the social work licensing law at its November 2012 meeting. Therefore, the proposal will be sponsored by the Board and included in this year's omnibus bill.

At the November 2012 Board meeting, the California Association for Licensed Professional Clinical Counselors (CALPCC) requested a similar amendment to the licensing law for clinical counselors. This change could be amended into Section 4999.20, which defines the practice of professional clinical counseling.

Christina Wong moved to direct staff to make any non-substantive changes and recommend that the Board sponsor legislation to make the proposed change. Dr. Leah Brew seconded. The Committee voted unanimously (4-0) to pass the motion.

VI. Discussion and Recommendations for Possible Rulemaking Action to Implement Senate Bill 704, Statutes of 2011, Chapter 387 - Examination Restructure

Ms. Madsen presented the background and proposed rulemaking regarding SB 704.

SB 704 restructured the examination process for applicants who are seeking LMFT, LCSW, and LPCC licensure. The restructure becomes effective on January 1, 2014. The Board now needs to revise its regulations so that when the examination restructure goes into effect, the exam process described in regulations is consistent with the examination process authorized by the law.

An earlier version of the exam restructure regulations was approved by the Board at its November 9, 2011 meeting. However, since that time, the effective date of the examination restructure was delayed from January 1, 2013 to January 1, 2014 due to conflicts with

implementing DCA's BreEZe Database System. Due to this change, as well as other technical changes that are now needed, staff is requesting reconsideration of this proposal.

How SB 704 Affects LMFTs, LPCCs, and LCSWs - Effective January 1, 2014, applicants for LMFT, LPCC, and LCSW licensure shall pass two exams: a California law and ethics examination (law and ethics exam) and a clinical examination (clinical exam). These new exams replace the standard written and the clinical vignette exams currently in place for MFTs and LCSWs, and change the exam structure for LPCCs.

Law and Ethics Exam

- A new registrant with the Board would be required to take the law and ethics exam. This exam must be taken within the first year of registration with the Board.
- If the law and ethics exam is not passed within the first renewal period, the registrant must complete a 12-hour law and ethics course in order to be eligible to take the exam in the next renewal cycle. The exam must be repeated in each renewal cycle until passed. In addition, in each year the exam is not passed, the 12-hour law and ethics course must be taken to establish examination eligibility.
- A registration cannot be renewed after six years. If a registrant's registration expires, he or she must pass the law and ethics exam in order to obtain a subsequent registration number.

Clinical Exam

- Once a registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take the clinical exam. This exam must be passed within seven years of an individual's first attempt. If it is not passed within this timeframe, the individual's eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the clinical exam.

Examination Restructure Differences for LPCCs - Under SB 704, LPCCs will follow the same examination process as LMFTs and LCSWs for the law and ethics exam, however, the current exam structure for LPCCs differs from LMFTs and LCSWs.

Current law states that once an LPCC registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take a clinical exam administered by the Board, or the national examinations, if the Board finds that one of these examinations meet the prevailing standards for validation and use of the licensing and certification tests in California.

At its meeting in May 2011, the Board accepted the National Clinical Mental Health Counselor Examination (NCMHCE) as meeting California testing standards. This proposed regulation establishes the NCMHCE as the designated examination for LPCCs.

The NCMHCE exam must be passed within seven years of an individual's first attempt. If it is not passed within this timeframe, the individual's eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the NCMHCE exam. This is consistent with the structure proposed for LMFTs and LCSWs taking the clinical exam.

Proposed Regulatory Changes - Several sections of the Board's regulations need to be revised in order to be consistent with the changes in SB 704. These changes are as follows:

- Revision of references to examination names in regulations in order to be consistent with the newly required examinations for registrants seeking an LMFT, LCSW, or LPCC license.
- Clarification of the waiting periods to take the new exams.
- Clarification of how to become eligible to take the California law and ethics exam.
- Clarification of the scenarios under which failure to take an exam can lead to abandonment of an application.
- Incorporation of language allowing the Board to accept the national examinations for LMFT and LCSW licensure, if the examinations are determined to be appropriate by the Board. The Board voted on November 4, 2010 to accept the Association of Social Work Boards (ASWB) Clinical Level Examination for those seeking licensure with the Board and is currently working on a contract with ASWB to offer its exam.
- Removal of the associate social worker extension fee.
- Other minor technical amendments such as deleting obsolete language, adding "licensed" to references to marriage and family therapists, and adding and deleting authority and reference citations as needed.

In addition, the passage of SB 274 deleted the annual renewal requirement for LPCCs who obtained a license through the grandparenting process. Grandparented LPCCs will now renew biennially, consistent with all other Board-issued licenses. The proposed regulations incorporate this change as well.

Mr. Caldwell referred to Section 1806, Abandonment of Application. He asked if it would be possible that someone could register as an intern and hold the registration for a year, then rather than to sit for the exam, allow the registration to expire and re-register for a new number. Ms. Madsen responded no, the individual would be required to renew the registration and sit for the exam.

Mr. Caldwell requested an update on AMFTRB and the national exam. Ms. Madsen responded that Dr. Tracy Montez will provide an update at the February 2013 Board meeting.

Mr. Wong, NASW-CA, requested clarification regarding the language stating the number of times the law and ethics exam may be taken after it is failed. Ms. Madsen responded that the exam can be taken every 90 days during a renewal cycle, and they are only required to take the law and ethics course once during that renewal period.

Mr. Wong, NASW-CA, requested clarification regarding the language stating that the exam must be passed within 7 years of the first attempt. Ms. Madsen responded that once the individual enters the clinical exam cycle, they have 7 years from that date first test date to pass the clinical exam. If the individual reaches the end of the 7-year period, they will be required to go back and pass the law and ethics exam again. If the individual fails the law and ethics exam, they will be required to take the law and ethics course.

Mr. Wong, NASW-CA, asked if the individual fails in the 6th year, will they have another 7 years to pass the clinical exam, giving them a total of 13 years to pass the exam. Ms. Madsen responded that statistics show the more times an individual takes the exam, the less likely they will pass the exam.

Mr. Wong, NASW-CA, stated that this process gives a registrant more time to pass the exam than the current system. Paula Gershon, Program Manager, responded that the standard

written exam can be taken into perpetuity as long as the exam is taken once a year. Therefore, this will potentially shorten the current time frame. There are people who have taken the standard written exam up to 20 times.

Ms. Wong asked if the law and ethics exam can be taken simultaneously while they are accumulating their supervision hours. Ms. Madsen responded yes.

Rebecca Gonzales, NASW-CA, asked if there is an 18-hour requirement for the coursework to be taken in school. Ms. Madsen responded that she did not know, but it is required by the Board.

Ms. Gershon responded that there is a requirement for law and ethics except for social workers. Ms. Gonzales asked if there was a minimum hour requirement. Ms. Gershon responded that she did not know.

Mr. Caldwell stated that he does not believe that there are a specific number of units or hours required.

Dean Porter, California Association for Licensed Clinical Counselors (CALPCC) stated that LPCCs have a 3-unit requirement within the degree.

Renee Lonner moved to submit the proposed regulations to the Board for consideration as a rulemaking package. Christina Wong seconded. The Committee voted unanimously (4-0) to pass the motion.

VII. Discussion and Recommendations for Possible Rulemaking Action Regarding Proposed Revisions to California Code of Regulations, Title 16, Division 18, Article 8 Board of Behavioral Sciences Continuing Education Requirements

Mr. Sodergren presented the proposed revisions to the continuing education requirements.

The Board voted at its November 2011 meeting to create a two-member committee to review and discuss the Board's current continuing education (CE) provider requirements and other models of CE in response to a number of issues identified by staff related to CE provider requirements. During 2012, the Continuing Education Provider Review Committee (Committee) met to discuss concerns.

The Committee has drafted suggested language that would revise the Board's CE provider program requirements. The drafted language will remove the Board's authority to directly approve and license providers. This language will also establish the Board's authority to accept CE credits from providers who have been approved or registered by a Board recognized "approval agency" or by an organization, institution, association or entity that has been recognized by the Board as a continuing education provider.

The proposed language outlines 3 ways a licensee would be able to gain CE credit from the following:

1. An accredited or approved postsecondary institution

2. A Board recognized approval agency or a CE provider that has been approved or registered by a Board-recognized approval agency:

    - National Association of Social Workers (NASW)
    - Association of Social Work Boards (ASWB)
    - National Board of Certified Counselors (NBCC)

- National Association of School Psychologists (NASP)
- American Psychological Association (APA)

3. One of the following organizations that are recognized by the Board as continuing education providers:

    - American Association for Marriage and Family Therapy (AAMFT)
    - American Association for Marriage and Family Therapy, California Division (AAMFT-CA)
    - California Association for Licensed Professional Clinical Counselors (CALPCC)
    - California Association of Marriage and Family Therapists (CAMFT)
    - National Association of Social Workers, California Chapter (NASW-CA)
    - California Society for Clinical Social Work (CSCSW)
    - California Association of School Psychologists (CASP)
    - California Psychological Association (CPA)
    - California Counseling Association (CCA)
    - American Counseling Association (ACA)

Mr. Sodergren presented the draft language. He noted a correction was made to Section 1887.4(b), and other grammatical corrections were made.

Ms. Epstein asked if there were any CE courses that are specific to LMFTs, and what entity will capture the LMFTs coursework. Dr. Brew responded that NBCC does a lot of LMFT coursework.

Ms. Epstein asked if there were any LMFT CE courses that none of these approval agencies would offer. Dr. Brew stated that anything involving marriage, family therapy and children would be approved under NBCC if they meet their criteria.

Mr. Caldwell stated that the APA only offers courses for psychologists for the purposes of the Board of Psychology. Does this mean that the APA could offer courses for LPCCs, LMFTs, and LCSWs? Ms. Madsen responded yes, they can get the courses now.

Ms. Madsen added that she does not believe there will be any barriers for LMFTs to get their CE courses.

Ms. Epstein referred to Section 1887 and expressed concern regarding the definition of self-study courses. She explained that this definition does not capture online learning. For example, Webinars are offered where people can type questions, receive live feedback, and interact. Ms. Epstein added that within online learning, it would be helpful to distinguish what is limited.

Ms. Epstein expressed that 18 hours of online learning is limiting for some people.

Dr. Brew stated that with Webinar settings, people can run the Webinar and not actually participate in the Webinar. There is a difference when courses are face-to-face rather than an online setting.

Mr. Caldwell explained that there is a clear distinction between a “synchronous” learning environment (interaction, real-time learning, Webinar) and an “asynchronous” learning environment (self-study). This terminology could be an option for the definition.

Mr. Wong, NASW-CA, commented that there are pre-recorded online lectures offered from institutions such as Harvard University, Yale, and Princeton. These are recorded lectures of the professors at those institutions. Mr. Wong asked if this type of learning is not considered to be good because it is not in live or in-person.

Ms. Epstein questioned if the archived recorded lectures are considered "asynchronous" because one cannot type questions and interact with the professor.

Dr. Brew commented that there are online CE companies that allow people to take the exam without opening and reading the material. Dr. Brew experimented with this by taking the exam without reading the material, and she passed the exam. She explained that this is the situation that the Committee is trying to avoid.

Mr. Wong, NASW-CA, stated that there are two separate issues here regarding the quality of the provider and the quality of the course. This is being addressed by who can approve courses. The organizations being selected are considered for their quality. This is different from the medium. There should be a distinction between bad quality content and the medium.

Mr. Sodergren stated that the Committee wants to make sure that people are actually taking the courses. This is why the self-study is limited.

Ms. Epstein stated that CAMFT has an issue with the definition of self-study. She stated that if self-study is going to be limited, then there must be a narrow description of what is limited.

Dr. Wietlisbach suggested using the descriptions provided by Mr. Caldwell: synchronous and asynchronous.

Mr. Wong, NASW-CA, stated that by using those descriptions, a third concept is now being introduced: is the person gaining knowledge? That cannot be measured.

Ms. Madsen responded that the law states that the CE must be taken and completed; it does not state that the material must be learned. Therefore, she is less concerned about the third component. Some of the entities listed actually require the method of delivery to be submitted and approved before the CE course can be offered. This is not a question of how the material is learned and what is learned. The question is whether the Board is comfortable with CE being provided on the internet.

Ms. Epstein asked the following questions: 1) What is considered "online?" 2) Is "online" listening to a lecture or reading an article? 3) Does there need to be a distinction? 4) Can we get rid of the 18-hour limit?

Ms. Madsen responded that if this is going to be turned over to the entities, it would seem reasonable to make that determination. You can make the argument to not have that differentiation. In this field, the physical interaction is important. Some people will look for the easiest method; eventually, that will catch up to those people.

Ms. Porter agreed that the available technology must be recognized. What is learned cannot be monitored; the Board can only require that the CE is taken and completed.

Discussion continued about how to construct the draft language pertaining to self-study.

Mr. Caldwell mentioned the DCA directive to move forward with a continuing competency model. He asked how that impacts this discussion. Ms. Madsen responded that the Committee

struggled with that. The Committee decided to table that matter, move forward on the current proposal, and evaluate the continued competency model at a later date.

Mr. Caldwell commented that a continuing competency model may address the concerns discussed today.

Ms. Madsen summarized that the term "self-study" and all references to the 18-hour limitation will be removed from the draft language. Ms. Lonner summarized that all 36 hours of CE can be taken online.

Ms. Wong asked if there will be some disciplinary action taken when an approval is revoked. Mr. Sodergren responded that no disciplinary action would be necessary. However, Ms. Madsen and Mr. Sodergren agreed that the Board's legal counsel will need to provide clarification.

Dr. Brew asked if the entities need to be outlined in the proposed language since this will be a dynamic list of entities. Ms. Madsen stated that the entities could be listed, and if the list changes, the Board can incorporate the change in an upcoming omnibus bill.

Mr. Sodergren responded that he believes that the Board must list the entities, but he will clarify this with legal counsel.

A member from the audience stated that if an approval agency loses its approver status, the providers under that approval agency will also lose their provider status as well. She asked about the process of notifying those providers. Ms. Madsen responded that she will confer with legal counsel and provide clarification on that process.

Ms. Epstein requested that the Committee be aware of the transition period for the providers. She also requested that the word "evidence" be removed from the Section 1887.41(b)(7). Ms. Epstein referred to Section 1887.3 and requested that licensees who serve on their professional organizations' ethics committees be considered to receive CE credit for serving in that role.

Dr. Brew responded that it makes sense to grant CE credit to licensees who serve on their professional organization's ethics committees because they are reviewing many cases. Ms. Lonner agrees.

Ms. Madsen agreed, and added that 6 hours of CE granted to those who serve in that capacity would be reasonable.

Ms. Epstein noted a grammatical correction to Section 1887.4(d).

Ms. Epstein referred to part (g) in the same section regarding business, marketing and personal growth. Ms. Epstein expressed that courses relating to advertising and marketing limitations or insurance coding, for example, seem to be acceptable courses to receive CE credit. Ms. Madsen responded that the subject material that the Board received was related to growing a business and farming for clients, for example. The subject material was not related to client care or insurance billing. Ms. Epstein suggested changing the language to state that specifically.

Dr. Brew expressed concern regarding personal growth in this section. Ms. Madsen replied that people are submitting coursework for taking Yoga; it has nothing to do with the client. Ms. Epstein added that CAMFT allows 1 CE credit for Tai Chi because it teaches mindfulness that could then be passed on to the client.

Mr. Wong, NASW-CA, expressed that he would like to see personal growth removed from the language.

Ms. Madsen asked the Committee if the consensus is to eliminate part (g) of Section 1887.4. The Committee agreed to eliminate it.

Ms. Epstein requested a correction under Section 1887.43(a)(3)(e) from NASW to NASW California Chapter.

Ms. Lonner requested a correction under Section 1887.43(a)(3)(f) from SCSW to CSCSW.

Mr. Caldwell requested a correction under Section 1887.41(c) from *shall constitute cause for revocation or recognition by the board* to *shall constitute cause for revocation of recognition by the board.*

Christina Wong moved to make any discussed changes and any non-substantive changes, and submit to the Board. Dr. Leah Brew seconded. The Committee voted unanimously (4-0) to pass the motion.

VIII. Public Comment for Items Not on the Agenda

Rebecca Gonzales, NASW-CA, expressed concern regarding Section 4996.17, experience gained for people outside of California for the law and ethics course and the 18-hour course requirement. This is not consistent with what has been done before. If the law and ethics exam was failed, a 12-hour course was required. An 18-hour course is 2 ½ days, which is difficult for a lot of people to do.

IX. Suggestions for Future Agenda Items

No suggestions for future agenda items were presented.

X. Adjournment

The meeting was adjourned at 12:36 p.m.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 186 **VERSION:** AMENDED APRIL 1, 2013

AUTHOR: MAIENSCHEIN **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: MILITARY SPOUSES: TEMPORARY LICENSES

Existing Law:

1) Requires a board within the Department of Consumer Affairs (DCA) to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California. (Business and Professions Code (BPC) §115.5(a))

2) States that in order for the license to be expedited, the military spouse must hold a current license in another state in the same profession for which he or she is seeking a California License. (BPC §115.5(a))

This Bill:

1) Requires a Board within DCA to issue a provisional license to an applicant who is eligible for an expedited license. Such an applicant must be married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, and must hold a current license in the same profession in another state. (BPC §115.5(b)(1))

2) Before receiving the provisional license, requires the applicant to provide an affidavit stating that the information provided in the application is accurate, and that verified documentation from the jurisdiction in which he or she is licensed has been requested. (BPC §115.5(b)(1))

3) States that the provisional license expires after 18 months, or upon issuance of the expedited license. (BPC §115.5(b)(1))

4) States the applicant must not have committed any act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license. (BPC §115.5(b)(2))

5) States the applicant must not have been disciplined by a licensing entity in another jurisdiction and must not be the subject of an unresolved complaint, review, or disciplinary proceeding of a licensing entity. (BPC §115.5(b)(2))

6) Allows the Board to adopt regulations to administer the provisional license program. (BPC §115.5(c))

Comments:

1) **Author's Intent.** The intent of this bill is to allow a military spouses to be issued a provisional license upon application, so that he or she may immediately seek employment

upon relocation to California due to the other spouse's active duty military orders. Currently, if the spouse is in a profession that has a state licensing requirement, he or she must wait to seek employment until a state license is received.

The author notes that according to recent study by the California Research Bureau, this state has approximately 72,000 military spouses living here at any given time, and approximately 1/3 of this population is in a profession that has a licensing requirement. This population typically has a high unemployment rate, because while military families can receive orders to move as often as every two years, state licensing processes can take several months.

This bill is part of a larger federal effort to improve the lives of military families. In February 2012, the U.S. Treasury and the U.S. Department of Defense issued a report titled "Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines." This report noted that approximately 35 percent of military spouses work in professions that require state licensure or certification, and recommended the use of temporary licenses to be used to accommodate qualified military spouses while they work toward a permanent license.

2) **Current Board Process.** The Board does not currently have a provisional license status. An applicant who has an out of state license can submit an application for examination eligibility. The Board evaluates the application to ensure the applicant meets the Board's education and experience requirements. If the Board determines that they meet all of the requirements, the Board will deem the applicant eligible to take the required examinations. Upon passage of the Board-required examinations, the Board will issue a license.

   AB 1904 (Chapter 399, Statutes of 2012) became law on January 1, 2012, and requires the Board to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state.

3) **Bypassing the Licensure Process.** As written, this bill requires that to obtain a provisional license, the military spouse must hold a current license in the same profession in another state. It does <u>not</u> require the following:

   - That the licensing requirements in the other state in which the person holds a license be substantially equivalent to the requirements in California; or

   - That the applicant passes the required Board administered examinations.

Each of the Board's four license types is currently required to pass at least one Board-administered examination. Passage of a Board-administered examination ensures that a candidate for licensure has competencies unique to the mental health environment in California.

Each applicant's education and experience is examined by the Board licensing evaluator during the review of the application. Bypassing this review, and the requirement of the passage of an examination tailored to address the unique mental health environment in California, could jeopardize consumer protection.

4) **Continuity of Care.** This bill creates a provisional license that is valid for an 18-month period. After this time, the provisional license will expire. If the applicant has not passed the required Board licensing exam(s) at that time, or if the Board determines the applicant does not meet licensing requirements, then the applicant would no longer be able to see his or

her patients. A consumer who seeks mental health services often seeks treatment for an extended period of time. Having a practitioner whose provisional license expires after eighteen months could disrupt the continuity of care for patients.

5) **Staffing and Breeze Concerns.** The Board does not currently have a provisional license status. It is unclear how quickly the department could create one, as boards under DCA are transitioning to the new Breeze database system.

   In addition, staff is already experiencing licensing backlogs due to an increase of applications received, while at the same time experiencing furloughs and the inability to hire additional needed staff. Adding a new license type would increase staff workload, and therefore would likely create a need for new staff.

6) **Support and Opposition.**

   Support:
   - None on file.

   Opposition:
   - None on file.

7) **History**

   2013

Apr. 2	Re-referred to Com. on B.,P. & C.P.
Apr. 1	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 7	Referred to Com. on B.,P. & C.P.
Jan. 29	From printer. May be heard in committee February 28.
Jan. 28	Read first time. To print.

8) **Attachment:** Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines, February 2012, U.S. Department of the Treasury and U.S. Department of Defense

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U.S. Department of the Treasury **U.S. Department of Defense**

Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines

February 2012

"We're redoubling our efforts to help military spouses pursue their educations and careers…We're going to help spouses get that degree, find that job, or start that new business. We want every company in America to know our military spouses and veterans have the skills and the dedication, and our nation is more competitive when we tap their incredible talents."

- ***President Barack Obama, January 24, 2011***

February 15, 2012

The President and his administration have taken the initiative to make the care and well-being of our nation's veterans, service members, and military families a priority across all agencies of the government. Last year, the President unveiled *Strengthening Our Military Families: Meeting America's Commitment* – a document that outlined the commitment of 16 separate agencies to 47 initiatives designed to improve the lives of military families. First Lady Michelle Obama and Dr. Jill Biden have also made it their personal priority to support our nation's veterans, service members, and military families through their Joining Forces initiative.

As a result of the President's advocacy, and in response to conversations that the First Lady and Dr. Biden have had with military spouses, the Departments of Treasury and Defense have co-authored this report to highlight the impact of state occupational licensing requirements on the careers of military spouses. The report shows that military spouses are especially affected by state occupational licensing requirements. About 35 percent of military spouses work in professions that require state licenses or certification. They move across state lines far more frequently than the general population. These moves present administrative and financial challenges, as illustrated in a case study of nursing licensing requirements. The report identifies best practices that states and licensing bodies can adopt through legislation, as well as current Department of Defense initiatives that address this issue.

We believe the best practices described in this report provide a baseline for further improvements, and hope it is a call to action to support our military spouses while still maintaining professional standards that ensure public safety. We are asking state governments, licensing boards, and professional associations to join us in finding more efficient ways for military spouses and other mobile professionals to fulfill these state and professional licensing and certification requirements.

Our military spouses support the well-being and safety of our nation, and we can best appreciate their sacrifices and unique challenges by adopting practices that lessen the burdens of their frequent moves. They have a compelling need and we are suggesting tangible solutions. All that is needed is the willingness to take action.

Dr. Janice Eberly
Assistant Secretary of the Treasury
for Economic Policy

Dr. Jo Ann Rooney
Acting Under Secretary of Defense
Personnel and Readiness

Executive Summary

On January 24, 2011, President Obama, First Lady Michelle Obama, and Dr. Jill Biden presented *Strengthening Our Military Families: Meeting America's Commitment* – a document that responded to the Presidential Study Directive calling on all Cabinet Secretaries and other agency heads to find better ways to provide our military families with the support they deserve. The directive was initiated to establish a coordinated and comprehensive federal approach to supporting military families, and it contains nearly 50 commitments by federal agencies in pursuit of this goal.

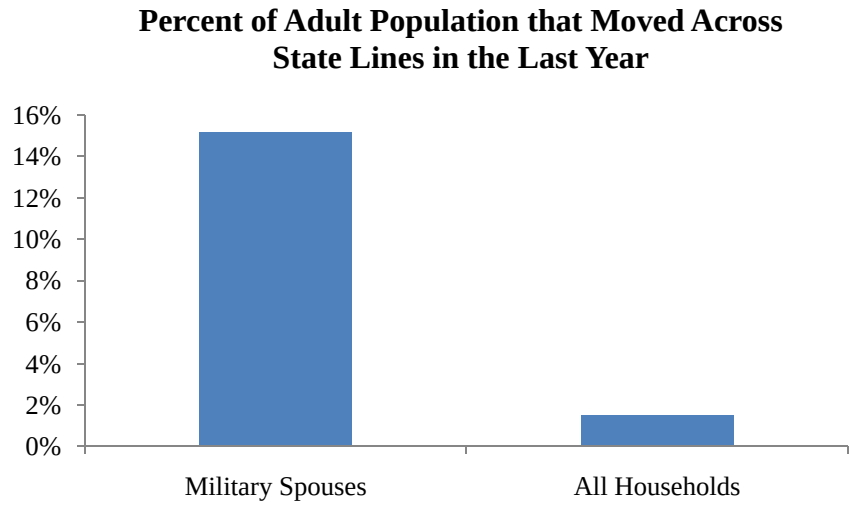
State licensing and certification requirements are intended to ensure that practitioners meet a minimum level of competency. Because each state sets its own licensing requirements, these requirements often vary across state lines. Consequently, the lack of license portability – the ability to transfer an existing license to a new state with minimal application requirements – can impose significant administrative and financial burdens on licensed professionals when they move across state lines. Because military spouses hold occupational licenses and often move across state lines, the patchwork set of variable and frequently time-consuming licensing requirements across states disproportionately affect these families. The result is that too many military spouses looking for jobs that require licenses are stymied in their efforts.

A spouse's employment plays a key role in the financial and personal well-being of military families, and their job satisfaction is an important component of the retention of service members. Without adequate support for military spouses and their career objectives, the military could have trouble retaining service members.

The Department of the Treasury and the Department of Defense (DoD) have conducted an analysis to highlight the importance of state occupational licensing requirements in the lives of licensed military spouses. The report demonstrates that military spouses often work in occupations that require a license or certification and that they have a relatively high rate of interstate mobility compared to the general population. The report also examines a case study of nursing licensing requirements to illustrate the administrative and financial burdens that licensed military spouses face when they move across state lines, and highlights current DoD initiatives that address these licensing issues. Finally, the report identifies best practices that states and licensing bodies can adopt to help reduce barriers for military spouses moving across state lines.

This report finds that:

- **Nearly 35 percent of military spouses in the labor force require licenses or certification for their profession.**
- **Military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts.**



In a 2008 Defense Manpower Data Center (DMDC) survey of military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40 percent of those respondents who had moved indicated that "easier state-to-state transfer of certification" would have helped them.

This report highlights best practices that states can pursue to help licensed military spouses. These best practices to help make licenses more portable come at little cost to states, but could make a meaningful difference in the lives of many military families. These best practices include:

- *Facilitating endorsement of a current license* from another jurisdiction as long as the requirements for licensure in that jurisdiction are substantially equivalent to those in the licensing state, and the applicant:

    - Has not committed any offenses that would be grounds for suspension or revocation of the license in the other jurisdiction, and is otherwise in good standing in that jurisdiction; and

    - Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units, having had sufficient recent experience (in a full or part time, paid or volunteer position), or by working under supervision for a prescribed period.

- *Providing a temporary or provisional license* allowing the military spouse to practice while fulfilling requirements needed to qualify for endorsement in the licensing state, or awaiting verification of documentation supporting an endorsement. Temporary licenses should require minimum documentation, such as proof of holding a current license in good standing and marriage to an active duty Service member who is assigned to the state.

- *Expediting application procedures* so that:

    - The director overseeing licensing within the state has authority to approve license applications for the boards; and/or

    - The individual licensing boards have authority to approve a license based simply on an affidavit from the applicant that the information provided on the application is true and that verifying documentation has been requested.

DoD, through the DoD-State Liaison Office (DSLO), has an on-going program to address key issues with state policymakers. This program, USA4 Military Families, covers 10 key issues, including occupational licensing and eligibility for unemployment compensation benefits. As of February 2012, thirteen states have introduced bills addressing the aforementioned best practices, and DSLO is working with these legislators. Although DoD continues to work on these issues on behalf of military spouses, more work remains to be done.

Introduction

Military spouses not only play an enormous role in supporting our armed forces, but they also endure recurring absences of their service member spouse, frequent relocations, and extended periods of single-parenting and isolation from friends and family.[i] Research suggests that the effects of these challenging circumstances can be mitigated by employment. Unfortunately, military spouses earn less than their civilian counterparts and are less likely to be employed, on average.[ii,iii] A RAND study found that nearly two-thirds of military spouses felt that being a military spouse negatively affected their opportunity to work because of the "frequent and disruptive moves" associated with a military lifestyle.[iv]

CIVILIAN SPOUSES OF ACTIVE DUTY SERVICE MEMBERS[v]

Number: 612,709
- Army: (40%)
- Navy: (24%)
- Marine Corps: (13%)
- Air Force: (24%)

Gender:
- Female: 95%
- Male: 5%

Average age: 32

Average years married: 7.8 years

Race/Ethnicity:
- Non-Hispanic White: 68%
- Non-Hispanic Black: 9%
- Hispanic: 12%

Education:
- No College: 16%
- Some College: 49%
- Bachelor's Degree: 25%
- Advanced Degree: 10%

Employment:
- Labor participation rate: 57%
- Unemployment rate: 26%

Age of Children*:
- Have children 5 & under: 54%
- Have children 6-12: 30%
- Have children 13-17: 15%

*72% have children

Research on military spouses finds that employment positively affects their general well-being – both directly and indirectly. Specifically, satisfaction with career development prospects has a direct and statistically significant effect on military spouses' well-being.[vi] However, many military spouses are not satisfied with their career prospects. One military spouse said, "as time passes and I am unable to find work, my career dies and I feel like I have to abandon my personal and professional goals because my spouse is [the] military."[vii] Although many military families depend on two incomes, they often face difficulties in career maintenance: "having to leave an excellent job behind, be unemployed for months, then underemployed…all of this affects our family's finances."[viii]

Military spouse employment and the associated financial and personal well-being is also an important component of the retention of service members. More than half of all active duty military personnel are married, and 91 percent of employed military spouses indicated that they wanted to work and/or needed to work.[ix] Research suggests that spouse dissatisfaction with the ability to pursue career objectives may hinder re-enlistment. Not only are military spouses highly influential regarding re-enlistment decisions, but more than two-thirds of married service members reported that their decision to re-enlist was largely or moderately affected by their spouses' career prospects.[x]

Complicated state occupational licensing requirements contribute to the difficulties that spouses of military personnel face in the workforce. State licensing and certification requirements are intended to ensure that practitioners meet a minimum level of competency and to help "protect the public from unqualified providers."[xi,xii] Because each state sets its own licensing requirements, these requirements often vary across state lines. Consequently, the lack of license portability – the ability to transfer an existing license to a new

state with minimal requirements – can impose significant administrative and financial burdens on licensed professionals when they move across state lines. Because nearly 35 percent of military spouses work in licensed or certified professions and are 10 times as likely to move across state lines than their civilian counterparts, military spouses are more frequently affected by the lengthy background checks, exams, fees, and other burdens associated with the lack of licensing portability.

Military spouses have expressed their frustration with the lack of licensing portability. According to a May 2010 survey of military spouses conducted by Blue Star Families, a military family support group, almost half of respondents felt that being a military spouse negatively affected their ability to pursue a career, while one in five respondents cited difficulties arising from the lack of licensing portability.[xiii] One military spouse said, "moving from one state to another, with different licensing requirements, has been a challenge. My career, while fairly portable, has still been difficult to maintain."[xiv] Another military spouse, a real estate broker, explained the challenges of transferring licenses when she and her husband moved across state lines:

> I was a real estate broker in North Carolina when I met my husband. When we [moved] to Texas, my license was no longer valid...In order to reinstate my license, I would have had to attend Texas real estate school and pay Texas licensure fees. The cost to get my license and restart my business would have been more than I could have earned in the 18 months we lived there before [moving] to Kentucky. In Kentucky, I would have had to do it all over again.[xv]

Given the volunteer nature of our military, the sacrifices military families make for this country, and the importance of retaining these families to maintain the readiness of our military, ensuring that licensing procedures do not needlessly hinder military spouses is critically important.

The first section of this report uses the Current Population Survey to demonstrate that military spouses often work in occupations that require a license or certification and that they have a relatively high rate of interstate mobility compared to the general population. The second section illustrates the administrative and financial burdens that military spouses face when they move across state lines by examining a case study of nursing licensing requirements. Finally, the third section highlights current DoD initiatives that address these licensing issues and discusses best practices that states and licensing bodies can adopt to help reduce barriers for military spouses moving across state lines.

Part 1: Licensing and Mobility

This section uses data from the Annual Social and Economic (ASEC) supplement of the Current Population Survey (CPS) to demonstrate that military spouses often work in state licensed occupations and that they have a relatively high rate of interstate mobility compared to the general population. The CPS is the basis for official government labor force statistics, including the unemployment rate.[xvi] While the CPS does not survey military barracks, the data do include civilian spouses of service members even if they live on-base in civilian housing.

We constructed a sample of approximately 2,800 spouses of active duty, Guard and Reserve service members, by combining CPS labor force data from 2007 through 2011. Table 1 presents summary statistics for our sample of military spouses. Due to data constraints, we exclude dual-military families (in which both spouses are enlisted) from the analysis. About 95 percent of military spouses in our sample are female, which is consistent with personnel data from DoD.[xvii]

Table 1: Gender and Population Estimate of Military Spouses

	Population estimate	Sample size	Percent of Total
Women	670,280	2,609	94.2%
Men	43,511	162	5.8%

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS.

Table 2 presents labor force statistics for military spouses and civilian spouses. Data from the CPS show that the labor force participation rate for military spouses has been about 57 percent over the past five years, with an unemployment rate of 9.3 percent.

Table 2: Labor Force Participation and Unemployment Rate of Military and Civilian Spouses

	Military Spouses	Civilian Spouses
Labor Force Participation Rate	56.8%	72.8%
Unemployment Rate	9.3%	4.9%

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Civilian spouse statistics are weighted to be comparable with the gender distribution of military spouses. Data are restricted to respondents aged 18 to 45.

Table 3 presents educational attainment for military spouses and civilian spouses using CPS data. Almost 44 percent of military spouses have "some college" but not a four-year degree, compared to 28 percent of civilian spouses. "Some college" includes receiving a degree or certificate from a community college or other short-term training program. In our sample, 38 percent of civilian spouses have at least a bachelor's degree, compared to 31 percent of military spouses.

Table 3: Educational Attainment of Military and Civilian Spouses

	Military Spouses	Civilian Spouses
Less than high school	2.9%	9.9%
High school diploma (or equiv.)	22.7%	24.9%
Some college	43.4%	27.8%
Bachelor's degree or higher	31.0%	37.3%

Notes: Averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Civilian spouse statistics are weighted to be comparable with the gender distribution of military spouses. Data are restricted to respondents aged 18 to 45.

Occupations of Military Spouses

Table 4 presents the top 20 occupations among our sample of military spouses. Teaching is the most common occupation among military spouses, followed by child care services, and nursing. While many of the common occupations among military spouses are not licensed, some of the most popular professions, including teaching and nursing, do require licensure.

In a 2008 Defense Manpower Data Center survey of active duty military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40 percent of those respondents who had moved indicated that "easier state-to-state transfer of certification" would have helped them. This is not surprising given that a third of the respondents had "recently been employed" in an occupation with potential licensure requirements, and nearly half of the respondents suggested that they were interested in pursuing careers in licensed fields.[xviii] These responses are consistent with our findings in the CPS, which suggest that nearly 35 percent of military spouses in the labor force require licenses or certification for their profession.[xix]

Table 4: Top 20 Occupations for Military Spouses in the Labor Force

Rank	Occupation	Percent of total
1	Teachers (Pre-Kindergarten - 12th Grade)**	5.2
2	Child care workers*	3.9
3	Registered nurses**	3.7
4	Retail salespersons	3.6
5	Secretaries and administrative assistants	3.5
6	Waiters and waitresses	3.0
7	Receptionists and information clerks	2.8
8	Cashiers	2.8
9	First-line supervisors/managers of retail sales workers	2.5
10	Customer service representatives	1.8
11	First-line supervisors/managers of office and administrative support workers	1.6
12	Accountants and auditors**	1.6
13	Nursing, psychiatric, and home health aides*	1.5
14	Managers, all other	1.3
15	Tellers	1.3
16	Dental assistants*	1.2
17	Financial managers	1.2
18	Postsecondary teachers	1.2
19	Stock clerks and order fillers	1.2
20	Other teachers and instructors	1.2
Memo		
Other categories		53.9

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS. Data include unemployed workers. Double asterisks (**) denote occupations that require licenses; single asterisk (*) denotes occupations that have certification.

Military Spouse Mobility

The ASEC supplement also asks respondents if they moved in the past year. Military spouses are approximately ten times more likely to have moved across state lines in the last year compared to the total population.[xx] Table 5 presents mobility rates for military spouses and for the total population. On average, 15 percent of military spouses reported moving across state lines in the twelve months before the CPS survey, compared to only 1.5 percent of all CPS respondents.

Table 5: Annual Percent of Adult Population Who Moved Across State Lines

	Percent Moved
Military Spouse	15.2
Civilian Spouse	1.1
Single / Unmarried	1.8
Memo	
All households	1.5

Notes: Annual averages based on pooled 2007 through 2011 data from the ASEC supplement of the CPS, but reflect relocation in the year before the survey. Those who moved from overseas locations are excluded from this table.[xxi]

Because military spouses frequently hold occupations that have licensing requirements and because they move across state lines much more than the general population, complicated licensing processes are disproportionately burdensome for them. The next section will examine state licensing requirements for nurses as a case study of the difficulties that military spouses face when transferring their license across state lines.

Part 2: Nurse Licensing Case Study

Registered Nursing License Portability

Nursing is among the most popular professions for military spouses, and registered nurses must meet licensure requirements in each of the states where they practice. Even though the nursing profession has standardized several aspects of its licensing procedures, transferring a license when moving remains a complicated process because of variability in state licensing requirements. These problems are not unique to the nursing profession, and many licensed professionals face similar challenges when attempting to transfer their license across state lines.

To illustrate the administrative and financial burdens that licensed military spouses face when they move across state lines, this section examines a case study of nursing licensing requirements. This section documents the process for obtaining a new nursing license in any state, lists the standardized aspects of moving a nursing license to another state, and demonstrates the variability in licensure requirements across state lines.

Initial Licensing Hurdles

To obtain an initial license as a registered nurse (RN) in any state, applicants must satisfy a large set of requirements. According to the Bureau of Labor Statistics, a nursing student must complete either a bachelor's degree, an associate's degree, or receive a diploma from an approved nursing program.[xxii] After completing a degree from an accredited program, an applicant for a registered nursing license must take the National Council Licensure Examination for Registered Nurses (NCLEX-RN). This nationally recognized test is administered by the National Council of State Boards of Nursing (NCSBN) and "measures the competencies needed to perform safely and effectively as a newly licensed, entry-level nurse."[xxiii, xxiv] Passing a background check is also a requirement for nursing licensure in all states.

Standardized Aspects of the Nursing "Licensure by Endorsement" Process

In general, a nurse changing his or her state of permanent residence must apply to the new state's licensing board for "licensure by endorsement," which is the process of transferring an existing nursing license to a new state. This process includes the application for and receipt of a temporary license while the application for a permanent license is processed. While a nurse waits for a temporary license, he or she may be unable to practice. The Nurse Licensure Compact (NLC) and the NURSYS online database help to address this inflexibility and facilitate the license transferring process by providing elements of standardization.

The NCSBN created the NLC in 1997.[xxv] Twenty-four states are members of the NLC. If a nurse changes his or her permanent residence from one compact state to another, the compact allows the nurse to practice using the previous state's license for up to 30 days. A change in residence requires that the nurse obtain a temporary or permanent license in the new state of residence in order to practice there for longer than 30 days. The NLC website states that nurses transferring their licenses when moving across state lines must "apply for licensure by endorsement, pay any applicable fees, and complete a declaration of primary state of residency in

the new home state, whereby a new multistate license is issued and the former license is inactivated."[xxvi] In other words, the 30-day privilege granted by this compact is separate from the temporary and permanent licenses granted through licensure by endorsement with the state nursing board. The compact agreement fills the gap between the time when the nurse moves and when a temporary license can be issued by the receiving state's nursing board.

The "licensure by endorsement" process has many components. A major part of this process is the verification of licensure in the previous state of residence. To this end, the NCSBN created an online data clearinghouse called NURSYS. Forty-six state nursing boards participate in NURSYS for verification of previous RN licensure.[xxvii] If a nurse needs license verification from a state that does not participate in NURSYS, he or she must contact the latter state's nursing board for a state-specific verification. There is a $30 fee for the use of the NURSYS system.[xxviii]

Although the NLC and NURSYS provide some standardization to the licensure by endorsement process, they do not ensure straightforward license portability for nurses moving across state lines and do not eliminate many of the non-uniform aspects of the application process, which are discussed below.

Variability Among States in the "Licensure by Endorsement" Process

While states frequently employ "licensure by endorsement" in nursing licensure, many states have additional requirements. Some states require "current experience"; this requirement mandates that prospective state license holders hold a current license and have worked as a nurse for some period specified by the state licensure board. The "current license" requirement often presents a significant complication when the license holder moves back to the United States after living overseas, as many military spouses do.

To allow nurses to continue practicing while their application for permanent licensure by endorsement is being processed, many state nursing boards offer temporary licenses after a preliminary background and qualifications checks. A clean record is usually required for a temporary license to be issued.[xxix]

Table 6 lists the 10 states with the largest active duty military populations and illustrates the variability in state nursing board requirements regarding license portability. For example, the wait time for a temporary license varies from as little as ten days in Virginia and Texas to up to six weeks in California. The time period for which a temporary license is valid also varies, from 30 days in Virginia to six months in California, Kentucky and North Carolina.[xxx] The waiting time for a permanent license is often not published by the state nursing board, but in most states an application expires if not completed within one year of the start date. Application fees also vary: among the 10 states examined, the fee ranged from $43 in Colorado to $200 in Texas.[xxxi]

Other Factors

There are other factors that both facilitate and slow the licensure by endorsement process. Some states offer automated procedures for submission of fingerprints, transcripts and fees, but others do not.[xxxii] Variability exists in the state board requirements for nursing licenses as well. Some

states automatically accept nursing degrees issued by a nationally approved program operated in another state, while others require that a nurse fulfill specific course requirements prior to licensure by endorsement.[xxxiii] There is also variation in state licensure requirements on training about time-varying issues such as infection control, abuse, privacy, and medical records.[xxxiv]

Although license portability for nurses is generally more straightforward than for other professions, nurses moving across state lines still have to go through a rigorous application process to practice nursing in another state. The variability of these processes and the associated need to continually relicense through examination poses difficulties for military spouses in licensed occupations. Other professions popular among military spouses, such as teaching, have even more complicated license portability requirements. One aspect of teacher licensing is discussed in Box 1, below.

Box 1: Teacher Testing Requirements

License portability in teaching is very complicated. There are several tiers of licensing in teaching, and course requirements vary widely based on the state and the subject being taught. Even the relatively standardized portions of teaching license requirements, such as the required Praxis II subject tests, have very different state standards. The table below demonstrates how the Praxis II cutoff scores vary among states.[xxxv]

Praxis II Passing Scores in States with Large Military Populations

	Mathematics	English Language, Literature, and Composition	Social Studies	Biology	Chemistry
Colorado	156	162	150	..	..
Hawaii	136	164	154	151	154
Kentucky	125	160	151	146	147
Virginia	147	172	161	155	153
Difference between the highest and lowest passing scores	31	12	11	9	7

In addition to the variability in Praxis II cutoff scores, many states with large military populations have their own individual examinations. Re-taking exams due to inconsistent cutoff scores or additional state tests pose time-consuming and expensive barriers to license portability.

Table 6: Requirements for Transferring Nursing Licenses to a New State

State	Does the state participate in NLC and NURSYS?	Application fee?	NCLEX Standardized Test	Temporary license valid for:	Wait time for temporary license:	Degree from accredited nursing education program needed?	Need Current Experience for Endorsement?
California	No (accepts verification from NURSYS, but does not provide information through NURSYS)	$100 or $151, depending on which fingerprinting method chosen	Yes, or SBTPE	6 months	4-6 weeks	Yes	No
Colorado	Yes	$43	Yes, or SBTPE	4 months	--	Yes	No
Florida	NURSYS only	$223	Yes, or SBTPE	--	--	Yes	Requires that the applicant worked as a nurse for 2 of the past 3 years
Georgia	No (accepts verification from NURSYS, but does not provide information through NURSYS)	$60	Yes, or SBTPE	Does not typically provide temporary licenses	--	Yes	Requires that the applicant worked as a nurse for 3 months or 500 hours in the past 4 years
Hawaii	No (accepts verification from NURSYS, but does not provide information through NURSYS)	$135-$180	Yes (minimum score: 1600), or SBTPE (minimum score: 350)	3 months	--	Yes	No
Kentucky	Yes	$169.25	Yes, or SBTPE	6 months	2 weeks	Yes	No
North Carolina	Yes	$188	Yes (minimum score: 1600), or SBTPE (minumum score: 350)	6 months	2 weeks	Yes	No
Texas	Yes	$200	Yes, or SBTPE (minimum score: 350)	120 days	10 days	Yes	Requires that the applicant worked as a nurse or passed the appropriate RN exam in the past 4 years
Virginia	Yes	$190	Yes, or SBTPE	30 days (may be extended at discretion of the board)	10 days	Yes	No
Washington	NURSYS only	$92	Yes, or SBTPE	--	--	Yes	No

Note: '--'indicates unavailable information. Source: Web sites of the listed state's Board of Nursing. Contact information for each State Board is posted on the web site of the National Council of State Boards of Nursing, under a link for Boards of Nursing. See www.ncsbn.org.

Part 3: Best Practices and Department of Defense Initiatives

Best Practices to Facilitate Licensure Portability

DoD has identified best practices that states could adopt to facilitate license portability. Although DoD initially focused on promoting specific national compacts and national certifications for two career areas (teachers and nurses), the Department has recently shifted to initiatives easing the overall licensing process in a state to affect a broader population of licensed military spouses. The Nurse Licensure Compact, described earlier in this report, which gives nurses a more streamlined approach to transferring a current license to a member state, provided DoD the key concepts (temporary licenses and endorsements) to use with states for expediting licensure in other occupations, particularly if the state boards adopt methods that can expedite the application and approval process.

Licensure by Endorsement

DoD and independent studies have consistently found that "licensure by endorsement" significantly eases the process of transferring a license from one state to another. Standard "licensure through examination" requires the applicant to go through numerous state reviews in addition to passing national or state examinations and may include a supervised practicum or apprenticeship. Licensure by endorsement streamlines the application and state verification process for applicants with active out-of-state licenses, helping licensed military spouse professionals return to work more quickly. Obtaining a license by endorsement usually only requires that the license from the previous state is based on requirements similar to those in the receiving state, and without a disciplinary record. However, in some cases, applicants must also show they have recently worked in the occupation (such as two out of the past four years) as a way of demonstrating current experience or proficiency. This latter requirement can pose a problem for military spouses who have been unable to practice due to assignment overseas or in other locations. If a spouse does not meet these requirements, they will, at a minimum, have to undergo further scrutiny than the endorsement process generally requires, and in some cases, go through the full "licensure through examination" process.

In its efforts to promote a broad-based model for licensure by endorsement, DoD worked closely with the Colorado Department of Regulatory Agencies (DORA) and interested state legislators, who subsequently passed Colorado House Bill (HB) 1175 in 2010. The legislation requires the licensure through endorsement process be considered for all 77 occupations regulated by DORA and allows the Director of DORA, rather than the individual licensing boards, to determine what is required to demonstrate competency for endorsement. This eliminates delays in waiting for boards to convene. Moreover, the legislation allows for alternative demonstrations of current experience, where required, such as accepting continuing education as a substitute when there are gaps in employment. This last provision especially helps military spouses who have been at an overseas duty station for an extended period of time and unable to practice.

Two other states enacted legislation in 2011 facilitating licensure by endorsement, each with a somewhat different approach to accommodating the needs of military spouses:

- Arizona enacted Senate Bill (SB) 1458 in 2011, which allows a military spouse applicant to qualify for endorsement with one year of experience in most occupations. For those few that require more than one year, it allows the applicant to be licensed if supervised by a licensed professional.

- Texas SB 1733, enacted in 2011, is similar to Colorado HB 1175 in that it allows the board to establish alternatives to current experience for proof of occupational competency. The bill also allows military spouses who had been licensed in Texas to reinstate their license if it expired less than five years ago and they spent at least six months of that time out of the state.

Temporary or Provisional Licensing

Temporary or provisional licensure is another way to ease state-to-state transitions for military spouses. Typically, these licenses are valid for anywhere between 3 and 12 months. To apply, the applicant usually has to provide proof of a current license, obtain a background check, and submit an application and fee. These licenses allow applicants to be employed while they fulfill all of the requirements for a permanent license, including examinations or endorsement, applications, and additional fees. Typically, temporary or provisional licenses are managed separately by each occupational area within a state, as is true for the Nurse Licensure Compact, discussed earlier in this report.

Colorado also provided DoD's first opportunity to gain support for temporary/provisional licensing for military spouses. In 2008, Colorado enacted HB 1162 which provides interim authorization to a military spouse with a current teaching license from another state to work within a school district for one year and allows the school district to provide an induction program which will help the military spouse obtain a professional educator license.

In 2010, DoD worked with state legislators in Florida to develop legislation supporting temporary licensure that encompasses multiple occupations. Florida HB 713 impacts commercial occupations, such as Veterinarians and Certified Public Accountants, providing the military spouse a six month temporary license as long as the spouse is married to an active member of the military assigned in Florida, has a current license, submits fingerprints for a background investigation, and pays a fee for the temporary license. Moreover, the bill allows military spouses to retain their Florida licenses if they move out of state for military reasons, and to practice without renewing the license upon return as part of a military move. Florida extended these provisions to healthcare occupations in 2011 with the enactment of HB 1319.

Four other states (Alaska, Kentucky, Missouri, and Tennessee) enacted legislation in 2011 to provide temporary/provisional licenses to military spouses, primarily using the Florida model. Notably, Kentucky HB 301 and Tennessee HB 968 provide licensure by endorsement if the spouse is qualified and temporary licensure if the spouse must fulfill additional state requirements to obtain a license (by endorsement or examination).

Expedited Application Processes

Approximately half of the states use a regulatory agency, such as the Department of Regulatory Agencies, while the others regulate through individual occupational boards and do not have an umbrella agency to expedite the application process. Different approaches were required to streamline the process in these states.

Through internal agreements with individual licensing boards, the Colorado Director of DORA has the authority to expedite the endorsement process by interceding to approve applications that fulfill the boards' criteria. Two states which do not have structures analogous to that in Colorado found other ways to expedite the application process:

- Montana provided an innovative approach in HB 94 that allows boards to approve an application (for an endorsement or temporary license) based on an affidavit stating that the information provided is true and accurate and that the necessary documentation is forthcoming. Boards review the documentation upon receipt and can take disciplinary action if there are discrepancies.

- Utah HB 384 allows their occupational boards to approve the use of out-of-state licenses for "*the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:*
  (i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and
  (ii) the license is current and the spouse is in good standing in the state of licensure."

While the Utah provision is the most inclusive and least intrusive for a military spouse, DoD will monitor its implementation to see if out-of-state licenses are accepted by employers as equal in quality to in-state licenses. In developing expedited approaches that save military spouses time and money, DoD does not want to make licensure easier for military spouses to achieve at the expense of degrading their perceived value in their profession.

The 2011 legislative activity is now the baseline for further developments in 2012. Legislators, regulators, and boards have been innovative and have shown an overall willingness to address the core concern that military spouses have only a short time in a location to establish their households, obtain new licenses, find employment within their professions, and progress in their skills and abilities. 2012 may provide additional innovation and opportunities to improve licensure portability for military spouses around the following integrated set of concepts:

- *Facilitating endorsement of a current license* from another jurisdiction as long as the requirements for licensure in that jurisdiction are substantially equivalent to those in the licensing state, and the applicant:

    - Has not committed any offenses that would be grounds for suspension or revocation of the license in the other jurisdiction, and is otherwise in good standing in that jurisdiction; and

- Can demonstrate competency in the occupation through various methods as determined by the Board, such as having completed continuing education units, having had sufficient recent experience (in a full or part time, paid or volunteer position), or by working under supervision for a prescribed period.

- *Providing a temporary or provisional license* allowing the military spouse to practice while fulfilling requirements needed to qualify for endorsement in the licensing state, or awaiting verification of documentation supporting an endorsement. Temporary licenses should require minimum documentation, such as proof of holding a current license in good standing and marriage to an active duty Service member who is assigned to the state.

- *Expediting application procedures* so that:

    - The director overseeing licensing within the state has authority to approve license applications for the boards; and/or

    - The individual licensing boards have authority to approve a license based simply on an affidavit from the applicant that the information provided on the application is true and that verifying documentation has been requested.

Other Department of Defense Initiatives

DoD Military Spouse Discussion Board

Although these current licensure initiatives appear very promising, DoD is reaching out to military spouses for their input on how best to alleviate the hindrances created by licensure requirements. Spouses have been encouraged to share their stories and concerns about the licensure process and provide examples of real world solutions. DoD posted a discussion board on Facebook.com to facilitate the aggregation of these stories and issues.

DoD also recognizes that best practices developed thus far with states may not cover all occupations and all impediments. With the exception of legislation passed in Colorado in 2008 for teachers entering the state, DoD is not aware of changes improving licensure for military spouses in this particular profession. Similarly, the legislation recently passed has specifically excluded attorneys. DoD launched specific discussion board sessions to learn more about the processes for obtaining teaching or law licenses and the barriers faced in maintaining these licenses while moving with the military. To further this discussion, DoD has invited interested military spouses who are teachers and attorneys to join groups to continue this dialogue.

Spouses who are attorneys have responded through the Military Spouse JD Network (MSJDN), an organization established by military spouses to advocate for provisional bar membership, to educate the legal community about military spouses, and to build a network to support improved career opportunities. DoD is working with the JD Spouse Network to achieve accommodations for attorneys.

MyCareer Advancement Account (MyCAA) Program

DoD currently operates the MyCAA program, which provides flexible, self-managed education and training accounts that enable military spouses of junior service members to gain the skills needed to successfully enter, navigate, and advance in portable careers. The accounts offer up to $4,000 to eligible spouses for pursuit of an Associate's degree, or license or credential leading to a portable career. Accounts are available to military spouses married to service members serving on active duty in the junior Enlisted, Warrant Officer and Officer grades.[xxxvi] Funds may be used by eligible military spouses entering the workforce or transitioning between jobs and careers, and to incumbent workers in need of new skills to remain employed or move up the career ladder. Accounts must be used to pay for expenses directly related to the attainment of an Associate's degree, license, or industry-recognized credential. The accounts have helped build the financial stability of military families. In FY11, approximately 38,000 spouses applied for and were provided MyCAA financial assistance.

Military Spouse Employment Partnership (MSEP)

The Military Spouse Employment Partnership (MSEP) is a targeted recruitment and employment partnership solution that connects corporate partners with military spouses who are seeking fulfilling portable careers. MSEP supports spouses of members on active duty, in the National Guard, and Reserves from all Services. MSEP partners offer flexible job opportunities that can withstand relocations, deployments, and other aspects of military life that have made career advancement so difficult for spouses in the past. MSEP now has almost 100 vetted "Fortune 500 Plus" employers participating, with over 150,000 jobs posted to its web portal (www.MSEPJobs.com) and 10,000 spouses who have been hired. As an MSEP Partner, a company agrees to:

- Identify and promote career opportunities for military spouses;
- Post job openings and a corporate human resources employment page on the MSEP Web portal;
- Offer transferable, portable career opportunities to relocating military spouse employees;
- Mentor incoming MSEP corporate partners;
- Participate in an annual MSEP meeting; and
- Document and provide employment data on military spouses hired.

MSEP's goal is to level the playing field and help military spouses connect with companies that are searching for skilled employees. Moreover, the impact of MSEP goes beyond just reducing the unemployment rate for military spouses by connecting employers to a large and diverse body of exceptionally capable, dedicated, and motivated workers. MSEP provides meaningful career opportunities that are compatible with the spouse's military service, which supports families remaining in the military.

Unemployment Compensation Eligibility

Military spouses face many challenges associated with frequent mobility, including the loss of income associated with the relocation process. In 2004, DoD began working with states to

enable military spouses who become unemployed because of their service member's reassignment to be eligible for unemployment compensation. Prior to DoD's involvement in this issue, most state statutes and policies viewed a spouse leaving a job due to a military move as a "voluntary" separation despite the fact that their departures are involuntary. Thirty-nine states now provide military spouses eligibility for unemployment compensation when they leave employment because of a military move, nearly triple the number of states in 2004. Eighty-five percent of military spouses live in these 39 states (plus the District of Columbia). The states granting unemployment compensation eligibility to working spouses in transition provide a much-needed financial bridge for military families during mandatory moves and allow licensed spouses the cushion to obtain new credentials and seek employment in their new state.

Part 4: Conclusion

Occupational licensing requirements place a significant and undue burden on military spouses, a population that makes great sacrifices for this country. Because many military spouses hold occupational licenses and often move across state lines, the patchwork set of variable and frequently time-consuming licensing requirements across states disproportionately affect these families.

A spouse's employment plays a key role in the financial and personal well-being of military families, and their job satisfaction is an important component of the retention of service members. Without adequate support for military spouses and their career objectives, the military could have trouble retaining service members.

Although further research will be conducted to pinpoint the most effective ways to help licensed military spouses when they transition across state lines, DoD has already identified several best practices that states can implement to ease job transitions for this population. These best practices — licensure by endorsement, temporary licensing, and expedited application processes — come at little cost to states, but would make an enormous difference in the lives of licensed military spouses.

DoD, through the DoD-State Liaison Office (DSLO), has an ongoing program to address key issues with state policymakers. This program, USA4 Military Families, covers 10 key issues, which include occupational licensing and eligibility for unemployment compensation benefits. As of February 2012, thirteen states have introduced bills addressing the aforementioned best practices, and DSLO is working with these legislators. This is encouraging and shows that states are willing to consider this valuable change. The Administration encourages all states to examine these best practice initiatives and work with DoD on their implementation. DoD will track the enactment of legislation to measure the change in processes and continue to request feedback from military spouses to ensure these processes meet their needs.

For additional information on these initiatives or to contact the DSLO, please visit www.usa4militaryfamilies.org and click on the licensure issue. Although DoD continues to work on these issues on behalf of military spouses, more work remains to be done.

Appendix 1: Licensing and Certification

There are two major types of occupational skill verification: certification and licensing. Certification is less stringent than licensing, and is meant to ensure that practitioners meet a minimum standard of knowledge about their field. Professions as varied as car mechanics and travel agents are certified. Licensing gives the practitioner a "right to practice," which differs from certification in that it is illegal to practice without a license.[xxxvii] Possessing a license indicates that the practitioner has satisfied government requirements by passing exams, completing education requirements, satisfying background checks, completing administrative paperwork, and paying fees.[xxxviii] A wide range of professions are licensed, including secondary school teachers, healthcare professionals (including nurses, doctors and medical technicians), lawyers, and social workers.

For most licensed professions, state boards administer the licensure process. Because of the variability in the licensing requirements from state to state, groups that are highly mobile and work largely in licensed fields frequently face administrative difficulties due to the lack of licensing portability.

Appendix 2: Top 20 States With the Most Active Duty Military Spouses

State	Number of Military Spouses (total)	Military Spouses per 1000 Civilian Spouses
Hawaii	25,875	119.7
Alaska	12,025	103.4
Virginia	65,889	46.2
North Carolina	55,563	33.8
Kentucky	25,896	30.2
Washington	32,553	27.6
Colorado	23,292	27.1
Kansas	15,183	26.7
Georgia	38,563	24.9
North Dakota	3,030	22.1
New Mexico	6,309	18.5
South Carolina	13,730	17.5
Texas	66,936	16.8
Oklahoma	11,301	15.7
Wyoming	1,610	15.2
Nevada	5,387	14.4
Maryland	13,883	14.0
California	72,422	12.3
Delaware	1,819	11.9
Louisiana	9,423	11.6

Note: Location of spouses is based on the assignment of the service member. Service members stationed in the District of Columbia are omitted. Numbers are as of September 30, 2011.

References and Notes

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[ii]Lim, Nelson, Daniela Golinelli, and Michelle Cho. "Working Around the Military" Revisited: Spouse Employment in the 2000 Census Data. Santa Monica, CA: RAND, 2007.
[iii]Where the civilian population is adjusted for the gender composition of the military spouse population
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[v]DMDC (2011). 2010 Military Family Life Project: Administration, datasets, and codebook (Report No. 2010-031). Arlington, VA: DMDC. All data are from 2010.
[vi]Rosen, Leora N., Jeannette R. Ickovics, and Linda Z. Moghamdam. "Employment and Role Satisfaction." *Psychology of Women Quarterly* 14 (1990): 371-85
[vii]Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families*. 07 Jan. 2011.
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[ix]Defense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses.* Available: https://www.dmdc.osd.mil/appj/dwp/index.jsp
[x]Defense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses.* Available: https://www.dmdc.osd.mil/appj/dwp/index.jsp
[xi]See Appendix 1 for the difference between ‘certification’ and ‘licensing.’
[xii]Krueger, Alan B. "Do You Need a License to Earn a Living? You Might Be Surprised at the Answer." *The New York Times*. 02 Mar. 2006. Web. 07 Jan. 2011.
[xiii]Blue Star Families. "2010 Military Family Lifestyle Survey." *Blue Star Families.* 07 Jan. 2011. The Blue Star Families survey was an informal survey of military spouses.
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[xvi]The CPS consists of a representative sample of about 60,000 households a month, and labor force questions are asked concerning all working-age adult members in the household. The ASEC CPS supplement includes detailed questions on the occupation of all working-age adults.
[xvii]Department of Defense Personnel Files; this does not include spouses who are themselves a part of the military.
[xviii]Defense Manpower Data Center, *2008 DMDC Survey of Active Duty Spouses.*Available: https://www.dmdc.osd.mil/appj/dwp/index.jsp
[xix]Using CPS and a list of licensed occupations from Kleiner, Morris M., and Alan B. Krueger." The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.
[xx]Excludes moves from overseas.
[xxi]These data are from 2006-2010 because questions regarding mobility are asked of the previous year. These data were compiled using pooled data from 2007 to the 2011 ASEC CPS supplement.
[xxii]"Registered Nurses." U.S. Bureau of Labor Statistics. 17 Dec. 2009. Web. 22 Jan. 2012.
[xxiii]Before 1982, this test was called the State Board Test Pool Examination (SBTPE), and results from this older version of the test are still accepted by state nursing boards.
[xxiv]National Council of State Boards of Nursing. "What Is NCLEX?" Web. 22 Jan. 2012.
[xxv]Broun, Caroline N. "About NCLA." Nurse Licensure Compact Administrators. 2010. Web. 07 Jan. 2011.
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[xxix]Prior convictions and disciplinary actions are often reviewed by state boards on a case-by-case basis, taking into account the severity of prior offenses and any remediary activities that may have been required. Telephone conversation with Danny Cope, California Department of Consumer Affairs Board of Registered Nursing call center operator, October 20, 2010.
[xxx]Web sites of the listed state’s Board of Nursing. Contact information for each State Board is posted on the web site of the National Council of State Boards of Nursing, under a link for Boards of Nursing. See www.ncsbn.org.
[xxxi]Web sites of the listed state’s Board of Nursing. See www.ncsbn.org.
[xxxii]Telephone conversation with Danny Cope, California Department of Consumer Affairs Board of Registered Nursing call center operator, October 20, 2010.

[xxxiii]Telephone conversation with Diane Tompkins, Assistant Director of Certifications, American Nurses' Credentials Center, October 21, 2010.
[xxxiv]Email correspondence with Anne Tumbarello, Director of the BSN Program at Mount St. Mary's College in Los Angeles, California.
[xxxv]Educational Testing Service. "The Praxis Series Passing Scores by Test and State." Ets.org. 2010. Web. 12 Feb. 2012. The table lists four of the ten states with the largest active duty military populations for which Praxis cut off scores are available.
[xxxvi]Eligible military spouses include those who are married to Service members on active duty and those who are married to members of the Guard and Reserve who are on Federal orders. The junior grades covered are Enlisted grades E1 – E5, Warrant Officer grades W1 and W2, and Officer grades O1 and O2.
[xxxvii]Kleiner, Morris M., and Alan B. Krueger."The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.
[xxxviii]Kleiner, Morris M., and Alan B. Krueger. "The Prevalence and Effects of Occupational Licensing." *British Journal of Industrial Relations* 48.4 (2010): 676-87.

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 186

Introduced by Assembly Member Maienschein
(Principal coauthor: Assembly Member Hagman)
(Coauthors: Assembly Members Dahle, Donnelly, Beth Gaines, Harkey, Olsen, and Patterson)
(Coauthors: Senators Fuller and Huff)

January 28, 2013

An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 186, as amended, Maienschein. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. ~~Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated.~~ Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces

of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would authorize a board within the department to issue a provisional license to an applicant who qualifies for an expedited license pursuant to the above-described provision. *The bill would prohibit a provisional license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed, or has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. The bill would require the board to approve a provisional license based on an application that includes an affidavit that the information submitted in the application is accurate and that verification documentation from the other jurisdiction has been requested.* The bill would require the provisional license to expire after 18 months *or at the issuance of the expedited license*.

By creating provisional licenses for which a fee may be collected and deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 115.5 of the Business and Professions Code is amended to read:

115.5. (a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a license from the board.

(b) *(1)* For each applicant who is eligible for an expedited license pursuant to subdivision (a) *and meets the requirements in*

paragraph (2), the board ~~may~~ *shall* provide a provisional license while the board processes the application for licensure. *The board shall approve a provisional license based on an application that includes an affidavit that the information submitted in the application is accurate and that verification documentation from the other jurisdiction has been requested.* The provisional license shall expire 18 months after issuance *or upon issuance of the expedited license*.

(2) (A) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed.

(B) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(c) A board may adopt regulations necessary to administer this section.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 213 **VERSION:** AMENDED APRIL 1, 2013

AUTHOR: LOGUE **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: LICENSURE AND CERTIFICATION REQUIREMENTS: MILITARY EXPERIENCE

Existing Law:

1) Requires healing arts boards under the Department of Consumer Affairs (DCA) to provide methods of evaluating education, training, and experience obtained in military service if the training is applicable to the requirements of the profession. (Business and Professions Code (BPC) §710)

2) Requires an applicant for licensure as a clinical social worker to have a master's degree from an accredited school of social work. (BPC §4996.2(b))

3) Defines an accredited school of social work as a school that is accredited by the Commission on Accreditation of the Council on Social Work Education. (BPC §4991.2)

4) Requires an applicant for licensure as a marriage and family therapist to have a specified doctoral or master's degree from one of the following types of school, college, or universities (BPC §§ 4980.36, 4980.37, 4980.40.5):

- **a.** Accredited by a regional accrediting agency recognized by the United States Department of Education; or
- **b.** Approved by the Bureau for Private Postsecondary Education; or
- **c.** Accredited by any of the following:
  - **i.** Northwest Commission on Colleges and Universities;
  - **ii.** Middle States Association of Colleges and Secondary Schools;
  - **iii.** New England Association of Schools and Colleges;
  - **iv.** North Central Association of Colleges and Secondary Schools; or
  - **v.** Southern Association of Colleges and Schools.

5) Requires an applicant for licensure as a professional clinical counselor to have a master's or doctoral degree with specified content, obtained from one of the following (BPC §§4999.12(a),(b), 4999.32(b), 4999.33(b)):

- **a.** A school, college or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting institution; or

b. A school, college or university that possessed unconditional approval by the Bureau for Private Postsecondary Education at the time of the applicant's graduation from the school, college or university.

This Bill:

1) As of July 1, 2014, requires a board that accredits or approves schools offering education course credits toward licensing requirements to require a school seeking accreditation or approval to submit proof that it has procedures in place to evaluate an applicant's military education, training and experience toward completion of an educational program designed to qualify a person for licensure. (BPC §712(a))

2) Requires the Department of Veterans Affairs to provide technical assistance to boards in determining equivalency of education, training, and practical experience. (BPC §712(b))

Comment:

1) **Intent.** This bill is part of a larger federal effort to improve the lives of military families. The bill's author notes that lack of health care providers is a significant barrier to access to health care services in underserved areas. As of June 2011, post 9/11 veterans of the military had an unemployment rate of 13.3 percent, but have often gained education, training, and experience in their military service that can be transferred to a licensed profession.

2) **Current Board Procedure.** The Board has very specific requirements for education and experience in its licensing laws. Currently, if an applicant for licensure or registration had military education and experience, the Board would conduct a review to determine whether or not it was substantially equivalent to current licensing requirements. This would be done on a case by case basis, depending on the specific characteristics of the individual's education and experience.

The Board is not aware of specific circumstances in which an individual had military education or experience. This is not tracked by the Board and there is not a common provider of military education or experience that the Board sees cited on incoming applications. Occasionally, the Board sees supervised experience that was obtained out of the country. This experience may be accepted by the Board if the Board can determine that the experience was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed at least two years in his or her current jurisdiction and is in good standing.

3) **Behavioral Health Professionals in the Military.** The U.S. Army lists certain types of mental health occupations on its website:

- **Social Workers:** According to the web site, army social workers perform a variety of job duties, including providing clinical counseling, crisis intervention, teaching, training, supervision, and research. The website also cites access to training opportunities for social workers, including continuing education courses, seminars, and conferences.

  Appointment as a social worker requires a master's degree in social work from a program accredited by the Council on Social Work Education. The social worker must also have a current and unrestricted state license in social work.

The military has a partnership with Fayetteville State University to provide a master of social work program at Fort Sam Houston military installation in Texas. This program is designed to allow soldiers to earn a master's degree in social work from an accredited university while in active duty military service, in an effort to increase the number of social workers in military service.

USC also offers a military social work program and is working on a model that will better enable the school to train future military social workers.

- **Mental Health Specialist:** The Army's web site states army mental health specialists collect psychosocial and physical data, assist with care of psychiatric and drug and alcohol patients, and counsel patients with personal, behavioral, or psychological problems.

  Serving as a mental health specialist in the army requires 10 weeks of basic combat training, and 20 weeks of advanced individual training practicing in-patient care.

  The army does not offer any specifics on its public website about what the 20 weeks of advanced in-patient care entails. If this bill were to go into effect, the Board would likely need the assistance of the Department of Veterans Affairs to determine the exact scope of this training.

4) **Effect on Board.** The Board does not accredit or approve schools offering education course credit. Instead, it relies on the accreditations and approvals of other specified entities. However, the Board does review a school's curriculum, and determines whether or not that curriculum meets all of the Board's requirements for licensure.

   The army itself requires its social workers to have a state license, and master's in social work from an accredited entity just as the Board does. It is unclear how the training of a mental health specialist would apply to Board experience and education for licensure. Currently, if the Board were to receive such an application, it would evaluate that application using current licensing requirements.

5) **Previous Legislation.** There were two successful legislative efforts last year to make licensing easier for military members and their spouses.

   - AB 1588 (Chapter 742, Statutes of 2012) requires the Board to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active military duty.

   - AB 1904 (Chapter 399, Statues of 2012) requires the Board to expedite the licensing process of an applicant who is a spouse of an active duty military member assigned to California, if they hold a current license for that profession in another state.

6) **Current Legislation.**

   - AB 186 (Maienschein) would require a board to issue a provisional license to a military spouse if he or she is eligible for an expedited license.

- AB 555 (Salas) would require a board to consider an applicant's relevant training received while serving in the military, if that training is applicable to licensure requirements.

- AB 1057 (Medina) would require a board to inquire on all licensure applications if the applicant serves or has served in the military.

7) Support and Opposition.

Support:

- None on file.

Opposition:

- None on file.

8) History

2013

Apr. 2	Re-referred to Com. on B.,P. & C.P.
Apr. 1	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 7	Referred to Coms. on B.,P. & C.P. and V.A.
Feb. 1	From printer. May be heard in committee March 3.
Jan. 31	Read first time. To print.

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9) Attachments

Attachment A: US Army Website: Careers & Jobs: Social Worker (73A)

Attachment B: US Army Article: "Soldiers Can Earn Master's Degree in Social Work," April 21, 2008

Attachment C: USC Website: Military Social Work Concentration

Attachment D: US Army Website: Careers & Jobs: Mental Health Specialist (68X)

CAREERS & JOBS

SOCIAL WORKER (73A)

✗ Enlisted ✓ Officer ✓ Active Duty ✓ Army Reserve ✓ Open to Women ✓ Entry Level

OVERVIEW

For the vast majority of social workers, their career choice is based on one simple ideal: a deep desire to help others help themselves. Serving as a social worker with the U.S. Army provides an environment where you can concentrate on patient care without the bureaucracy found in the private sector. In addition to providing direct services, your responsibilities could include teaching, training, supervision, research administration and policy development.

JOB DUTIES

- Provide clinical counseling, crisis intervention, disaster relief, critical event debriefing, teaching and training, supervision, research, administration, consultation and policy development in various military settings
- Enhance unit readiness and the emotional well-being of military members, their family members and other eligible beneficiaries
- Conduct and supervise direct patient care, and plan and execute disease prevention and health promotion programs
- Perform special staff functions in health support for commanders at all levels
- Conduct research on conditions of military importance, and supervise and participate in graduate medical education and training of other medical personnel needed to sustain a robust and readily available medical system

Unique duty positions include: social worker; chief, Department of Social Work; chief, Social Work Service; director, Family Advocacy Program, U.S. Army Community and Family Support Center; clinical director, Alcohol and Drug Abuse Prevention and Control Program; division social worker;social worker, Community Mental Health Service; director, Mental Health, United States Army Disciplinary Barracks; medical social work, Army medical treatment facility; director, Social Work Fellowship in Child and Family Practice Program.

REQUIREMENTS

ACTIVE:

- Master's degree in social work from a program accredited by the Council on Social Work Education
- Current, unrestricted license for practice
- Between 21 and 42 years of age (may request a waiver)
- U.S. citizenship

RESERVE:

- In addition to the above qualifications, permanent U.S. residency is required for Reserve duty officers.

TRAINING

In the U.S. Army, the case diversity social workers experience in caring for Soldiers far exceeds the medical care environment of the private sector. As an Army Medical Service Corps officer, you'll have access to the most sophisticated technology and treatments, the opportunity to consult with experts in both the military and private sector, plus exceptional professional growth opportunities, including continuing education courses, seminars and conferences.

HELPFUL SKILLS

The normal environment of an Army Medical Service Corps officer's work requires time-sensitive problem analysis with an accurate, sound and immediate decision. Ability to operate under stress, apply critical thinking skills, make decisions and translate these skills to battlefield conditions is critical to medical and mission success.

Effective patient care requires the proper balance between technical skills and the ability to apply the appropriate treatment or procedure at the right moment. Army Medical Service Corps officers possess expert knowledge in their area of concentration, patient management, and general support and coordination principles. Social workers gain this knowledge through continuing medical education and experience sustained by mentoring, additional institutional training, continuous self-development and progressive levels of assignments within their specialty.

Learn more about the ASVAB and see what jobs you could qualify for.

COMPENSATION

ACTIVE BENEFITS:
In addition to the many privileges that come with being an officer on the U.S. Army health care team, you'll be rewarded with:

- Health Professionals Loan Repayment Program provides 30 days of paid vacation earned annually
- Noncontributory retirement benefits with 20 years of qualifying service
- No-cost or low-cost medical and dental care for you and your family

RESERVE BENEFITS:

- Noncontributory retirement benefits at age 60 with 20 years of qualifying service
- Low-cost life and dental insurance
- Travel opportunities, including humanitarian missions

Both active and Reserve duty officers enjoy commissary and post exchange shopping privileges; a flexible, portable retirement savings and investment plan similar to a 401(k); paid continuing education; and specialized training to become a leader in their field.

EDUCATION BENEFITS

The U.S. Army offers opportunities for social workers in a variety of practice areas, including clinical, administrative and research roles. As a member of the Army Medical Service Corps, you'll have access to the most sophisticated technologies and treatment methods, the opportunity to consult with experts in both the military and private sector, plus exceptional professional growth opportunities, including continuing education courses, seminars and conferences.

As a commissioned officer of the U.S Army, you'll also enjoy generous education loan-repayment benefits, residency programs and ongoing initiatives to support your career development and advancement.

FUTURE CIVILIAN CAREERS

As you advance through your career, you will be looking for experiences that blend teaching, research and clinical excellence to best prepare you for unique and challenging opportunities in your field. Our social workers excel in clinical, research, academic and health administration arenas. Many have worked in more than one career track throughout their time in the U.S. Army and have held leadership positions ahead of their private sector counterparts. In fact, U.S. Army social workers are highly desired candidates for competitive private sector jobs upon leaving the Army.

Soldiers Can Earn Master's Degree In Social Work

April 21, 2008

By **Elaine Wilson**

FORT SAM HOUSTON, Texas -- A new graduate program at the Army Medical Department Center and School is opening doors for aspiring social workers.

Starting in June, Soldiers will have the opportunity to earn their master\'s degree in social work from an accredited university while still carrying out their active-duty military commitment.

"My heart is still pounding," said Col. Yvonne Tucker-Harris, social work consultant to the Army surgeon general, of the program coming to fruition. "This is such a great investment for the Army."

The program was made possible through an Army partnership with Fayetteville State University in North Carolina. As Soldiers complete the graduate course at the AMEDDC&S, they will be awarded a master's degree from FSU. While several universities sent in proposals in response to the Army's solicitation, FSU was selected as the partnering university because it represented the best fit for both the Army and the university.

"I see this as a win-win situation," said Terri Moore Brown, FSU's Social Work Department chair, in town to tour the AMEDDC&S facilities. "Our students will benefit from symposiums and workshops given by the faculty at Fort Sam Houston. We'll be able to expose our students to the wonderful resources here."

The partnership with FSU also opens the door to research collaborations, which can lead to better social work programs throughout the world, said Col. Joseph Pecko, director, Army-Fayetteville State MSW Program and Soldier and Family Support Branch.

"We're looking forward to joint efforts between the students and faculty here and at Fayetteville," Pecko said.

By starting an MSW program, Army leaders hope to boost the number of social workers, which has been depleted in the wake of the Global War on Terrorism.

Up until now, the Army relied on availability of MSW graduates from civilian universities who had gone on to acquire an independent practice license from their state of choice.

"The depletion of social workers has occurred due to the lack of available qualified, competent and committed social workers who have an understanding and desire to serve on active duty," said Dr. Dexter Freeman, assistant director, Army-Fayetteville State MSW Program. "Army social workers must ... be able to accept that their lives will involve multiple deployments in addition to helping Soldiers and Families cope with the stress of war."

The program is considered a force multiplier, Freeman said. "We're trying to increase our number of social workers," he said, adding that the social work force is undermanned by about 26 percent. "The best way to fix the problem is with our own master's of social work program that targets Soldiers who are in the force and qualified to enter the program."

The benefits clearly outweigh the cost, said Pecko. "Not only does the program take care of retention, but by recruiting and creating Army social workers, they'll know exactly what they're getting into and be more likely to stay in for a full career."

The first class of 19 Soldiers will begin in June with a faculty comprising three active-duty and four civil-service instructors, all with their doctorate in social work. The course will include two tracks: a 13-month track for Soldiers with a non-social work bachelor's degree, and an eight-month advanced standing track for students with a degree in social work from an accredited program. Students graduate with an MSW and will take their initial license before they leave Fort Sam Houston.

During the class, students will learn to understand the dynamics of human behavior in the context of their social environment, particularly in relation to the military experience. After graduation, students will be assigned to behavioral health departments throughout the world where they will conduct assessments and provide interventions to individuals and groups under the supervision of a licensed clinical social worker.

As social workers in the Army, graduates will provide individual counseling for Soldiers and their Families, whether it's concerning substance abuse, physical or emotional abuse, or just help with daily challenges. In two years, they will have the opportunity to test for their independent practitioner license to become a LCSW.

"Through curriculum development we can give students military-unique training and set them up for success in the military," said Pecko, whose branch develops the post traumatic stress disorder training for the Army. "We will incorporate lessons from Operations Iraqi and Enduring Freedom into the program curriculum, as well as our experiences with combat-related emotional issues, such as PTSD."

Tucker-Harris said the investment in the Army's own will pay dividends in the future.

"It took a lot to get to this point, but we've had amazing support from Army leadership and we're looking forward to great success."

Page last updated Mon April 21st, 2008 at 10:20

1.877.700.4MSW

SSWVAC@USC.EDU

APPLY NOW

About

Military Social Work

Military Social Work MSW Program Concentration

Many war veterans suffer serious mental health disorders ranging from post-traumatic stress, anxiety and depression, which can lead to substance abuse, domestic violence, child abuse and suicide. This specialized area of study prepares individuals to provide a full range of human services to the nation's military personnel, veterans and their families, helping them cope with the stresses of military life. The military sub-concentration – which can be integrated with any of the three major concentration areas offered through the Virtual Academic Center – provides a range of placement options for students interested in learning more about working with military personnel, military retirees, spouses and other military dependants. Students will complete 550 clock hours of an internship in various types of approved settings working with veteran populations..

Practicum sites are based on the availability of the agency to accept a student and a field instructor to provide supervision; therefore, no guarantees are extended to students on a specific type of agency that would be arranged. Please note that only students residing on base are candidates for placement on base.

The school's Center for Innovation and Research on Veterans and Military Families is collaborating with the USC Institute for Creative Technologies on a new virtual reality module that will expand the ability of educators to train future military social workers. The virtual patient is an avatar-based simulation program designed to replicate the experiences of veterans exposed to combat stress and help prepare students to interact with real clients. The program is the first application of virtual reality in a social work setting and is expected to be used in USC School of Social Work classrooms in the near future. Students may also find opportunities to participate in the center's research initiatives that serve veterans and military families.

Curriculum

- Clinical Practice with the Military Family: Understanding and Intervening
- Military Culture and the Workplace Environment
- Clinical Practice with Service Members and Veterans

MSW@USC Admissions: 1.877.700.4MSW (1.877.700.4679) or sswvac@usc.edu

USC SCHOOL OF SOCIAL WORK

Community Outreach Welcome Admissions Academic

Legal Sitemap

CAREERS & JOBS

MENTAL HEALTH SPECIALIST (68X)

✓ Enlisted ✗ Officer ✓ Active Duty ✓ Army Reserve ✓ Open to Women ✓ Entry Level

OVERVIEW

The mental health specialist is primarily responsible for assisting with the management and treatment of inpatient and outpatient mental health activities.

JOB DUTIES

- Collect and record psychosocial and physical data
- Assist with care and treatment of psychiatric, drug and alcohol patients
- Counsel clients/patients with personal, behavioral or psychological problems

TRAINING

Job training for a mental health specialist requires 10 weeks of Basic Combat Training and 20 weeks of Advanced Individual Training, including practice in-patient care. Training length varies depending on specialty.

Some of the skills you'll learn are:

- Patient-care techniques
- Emergency medical techniques

HELPFUL SKILLS

- Enjoy helping and caring for others
- Ability to communicate effectively and work under stressful conditions
- Interest in chemistry, biology, psychology, general science and algebra
- High attention to detail

REQUIRED ASVAB SCORE(S)

Skilled Technical (ST) : 101

Learn more about the ASVAB and see what jobs you could qualify for.

COMPENSATION

Total compensation includes housing, medical, food, special pay, and vacation time. Learn more about total compensation.

EDUCATION BENEFITS

In the Army, qualified students can earn full-tuition, merit-based scholarships, allowances for books and fees, plus an annual stipend for living expenses. Learn more about education benefits.

FUTURE CIVILIAN CAREERS

The skills you learn will help prepare you for a career with hospitals, clinics, nursing homes or rehabilitation centers. With a mental health specialist background, you may consider a career as a psychiatrist's assistant, a medical assistant or a physician's aide.

RELATED JOBS

HEALTH CARE SPECIALIST (68W)

The health care specialist is primarily responsible for providing emergency medical treatment, limited primary care, and health protection and evacuation from a point of injury or illness.

Active/Reserve: Both
Officer/Enlisted: Enlisted
Restrictions: None

OPERATING ROOM SPECIALIST (68D)

The operating room specialist assists the nursing staff in preparing the patient and the operating room environment for surgery and for providing assistance to the medical staff during surgical procedures.

Active/Reserve: Both
Officer/Enlisted: Enlisted
Restrictions: None

PREVENTIVE MEDICINE SPECIALIST (68S)

Preventive medicine specialists are primarily responsible for conducting or assisting with preventive medicine inspections, surveys and preventative medicine laboratory procedures. They also supervise preventive medicine facilities or serve on preventive medicine staffs.

Active/Reserve: Both
Officer/Enlisted: Enlisted
Restrictions: None

RADIOLOGY SPECIALIST (68P)

The radiology specialist is primarily responsible for operating X-ray and related equipment used in diagnosing and treating injuries and diseases.

Active/Reserve: Both
Officer/Enlisted: Enlisted
Restrictions: None

LOCATE A RECRUITER REQUEST MORE INFO

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 213

Introduced by Assembly Member Logue
(Principal coauthor: Assembly Member Pan)
(Coauthors: Assembly Members Conway, Beth Gaines, Harkey, Jones, Morrell, Nestande, and Wilk)

January 31, 2013

An act to add Section 712 to the Business and Professions Code, and to add Section 131136 to the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 213, as amended, Logue. Healing arts: licensure and certification requirements: military experience.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the rules and regulations of these healing arts boards to provide for methods of evaluating education, training, and experience obtained in military service if such training is applicable to the requirements of the particular profession or vocation regulated by the board. Under existing law, specified other healing arts professions *and vocations* are licensed or certified and regulated by the State Department of Public Health. In some instances, a board with the Department of Consumer Affairs or the State Department of Public Health approves schools offering educational course credit for meeting licensing or certification qualifications and requirements.

This bill would require ~~a healing arts board within the Department of Consumer Affairs and~~ the State Department of Public Health, upon

the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate *for specified professions and vocations* if that education, training, or experience is equivalent to the standards of the ~~board or~~ department. If a board *within the Department of Consumer Affairs* or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than July 1, 2014, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

Under existing law, the Department of Veterans Affairs has specified powers and duties relating to various programs serving veterans. Under existing law, the Chancellor of the California State University and the Chancellor of the California Community Colleges have specified powers and duties relating to statewide health education programs.

With respect to complying with the bill's requirements and obtaining specified funds to support compliance with these provisions, this bill would require the Department of Veterans Affairs, the Chancellor of the California State University, and the Chancellor of the California Community Colleges to provide technical assistance to the healing arts boards within the Department of Consumer Affairs, the State Department of Public Health, and to the schools offering, or seeking to offer, educational course credit for meeting licensing qualifications and requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Veterans Health Care Workforce Act of ~~2012~~ *2013*.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Lack of health care providers continues to be a significant barrier to access to health care services in medically underserved urban and rural areas of California.

(2) Veterans of the United States Armed Forces and the California National Guard gain invaluable education, training, and practical experience through their military service.

(3) According to the federal Department of Defense, as of June 2011, one million veterans were unemployed nationally and the jobless rate for post-9/11 veterans was 13.3 percent, with young male veterans 18 to 24 years of age experiencing an unemployment rate of 21.9 percent.

(4) According to the federal Department of Defense, during the 2011 federal fiscal year, 8,854 enlisted service members with medical classifications separated from active duty.

(5) According to the federal Department of Defense, during the 2011 federal fiscal year, 16,777 service members who separated from active duty listed California as their state of residence.

(6) It is critical, both to veterans seeking to transition to civilian health care professions and to patients living in underserved urban and rural areas of California, that the Legislature ensures that veteran applicants for licensure by healing arts boards within the Department of Consumer Affairs or the State Department of Public Health are expedited through the qualifications and requirements process.

(b) It is the intent of the Legislature to ensure that boards within the Department of Consumer Affairs and the State Department of Public Health and schools offering educational course credit for meeting licensing qualifications and requirements fully and expeditiously recognize and provide credit for an applicant's military education, training, and practical experience.

SEC. 3. Section 712 is added to the Business and Professions Code, to read:

~~712. (a) Notwithstanding any other provision of law, a board under this division shall, upon the presentation of satisfactory evidence by an applicant for licensure, accept the education, training, and practical experience completed by the applicant as a member of the United States Armed Forces or Military Reserves of the United States, the national guard of any state, the military reserves of any state, or the naval militia of any state, toward the qualifications and requirements for licensure by that board if the board determines that the education, training, or practical experience is equivalent to the standards of the board.~~

~~(b)~~

712. (a) Not later than July 1, 2014, if a board under this division accredits or otherwise approves schools offering educational course credit for meeting licensing qualifications and requirements, the board shall require a school seeking accreditation or approval to submit to the board proof that the school has procedures in place to evaluate, upon presentation of satisfactory evidence by the applicant, the applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure if the school determines that the education, training, or practical experience is equivalent to the standards of the board. A board that requires a school to be accredited by a national organization shall not impose requirements on the school that conflict with the standards of the national organization.

~~(c)~~

(b) With respect to complying with the requirements of this section including the determination of equivalency between the education, training, or practical experience of an applicant and the board's standards, and obtaining state, federal, or private funds to support compliance with this section, the Department of Veterans Affairs, the Chancellor of the California State University, and the Chancellor of the California Community Colleges shall provide technical assistance to the boards under this division and to the schools under this section.

SEC. 4. Section 131136 is added to the Health and Safety Code, to read:

131136. (a) Notwithstanding any other provision of law, the department shall, upon the presentation of satisfactory evidence by an applicant for licensure or certification in one of the professions described in subdivision (b), accept the education, training, and practical experience completed by the applicant as a member of the United States Armed Forces or Military Reserves of the United States, the national guard of any state, the military reserves of any state, or the naval militia of any state, toward the qualifications and requirements for licensure *or certification* by the department if the department determines that the education, training, or practical experience is equivalent to the standards of the department.

(b) The following professions are subject to this section:

(1) Medical laboratory technician as described in Section 1260.3 of the Business and Professions Code.

(2) Clinical laboratory scientist as described in Section ~~1262~~ *1261* of the Business and Professions Code.

(3) Radiologic technologist as described in Chapter 6 (commencing with Section 114840) of Part 9 of Division 104.

(4) Nuclear medicine technologist as described in Chapter 4 (commencing with Section 107150) of Part 1 of Division 104.

(5) Certified nurse assistant as described in Article 9 (commencing with Section 1337) of Chapter 2 of Division 2.

(6) Certified home health aide as described in Section 1736.1.

(7) Certified hemodialysis technician as described in ~~Article 3.5 (commencing with Section 1247) of Chapter 3 of Division 2~~ *Section 1247.61* of the Business and Professions Code.

(8) Nursing home administrator as described in ~~Chapter 2.35 (commencing with Section 1416) of Division 2.~~ *Section 1416.2.*

(c) Not later than July 1, 2014, if the department accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the department shall require a school seeking accreditation or approval to submit to the board proof that the school has procedures in place to fully accept an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification if the school determines that the education, training, or practical experience is equivalent to the standards of the department. If the department requires a school to be accredited by a national organization, the requirement of the department shall not, in any way, conflict with standards set by the national organization.

(d) With respect to complying with the requirements of this section including the determination of equivalency between the education, training, or practical experience of an applicant and the department's standards, and obtaining state, federal, or private funds to support compliance with this section, the Department of Veterans Affairs, the Chancellor of the California State University, and the Chancellor of the California Community Colleges shall

provide technical assistance to the department, to the State Public Health Officer, and to the schools described in this section.

O

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 252 **VERSION:** AMENDED APRIL 2, 2013

AUTHOR: YAMADA AND EGGMAN **SPONSOR:** NATIONAL ASSOCIATION OF SOCIAL WORKERS – CALIFORNIA CHAPTER

RECOMMENDED POSITION: NONE

SUBJECT: SOCIAL WORKERS

Existing Law:

1) Defines the term "accredited school of social work" as a school that is accredited by the Commission on Accreditation of the Council on Social Work Education. (Business and Professions Code (BPC) §4991.2)

2) Defines the practice of clinical social work as a service in which special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people achieve more adequate, satisfying, and productive social adjustments. (BPC §4996.9)

3) States the application of social work methods include the following (BPC §4996.9):

    a) Counseling and using applied psychotherapy;

    b) Providing information and referral services;

    c) Arranging for social services;

    d) Explaining/interpreting psychosocial aspects of individuals, families, or groups;

    e) Helping communities organize, provide or improve social or health services; and

    f) Research related to social work.

4) Requires the Board of Behavioral Sciences (Board) to issue a clinical social worker license to an applicant who qualifies under the Clinical Social Worker Practice Act, and who passes the required examinations. (BPC §§4991, 4996.1)

5) Allows only licensed individuals to use the title "Licensed Clinical Social Worker." (BPC §4996(a))

6) Prohibits the practice of clinical social work unless a person holds a valid license (BPC §4996(b))

7) States that the clinical social worker licensing requirements do not apply to an employee or volunteer under supervision, when he or she is working in one of the following settings (BPC §4996.14):

a) A government entity;

b) A school, college, or university; or

c) An institution that is both nonprofit and charitable.

This Bill:

1) Only allows the title "social worker" to be used by a person who has a degree from an accredited school of social work. (BPC §4998.90(a))

2) States this title restriction does not apply to a person who held a "social worker" job classification prior to January 1, 2014. (BPC §4998.90(b))

3) States that a social worker shall not use the titles "Licensed Clinical Social Worker" or "Associate Clinical Social Worker" unless they hold the appropriate license or registration with the Board. (BPC §4998.90(d))

4) Applies this protection of the "social worker" title to all individuals, even those who work in exempt settings (a governmental entity, school, college, or university, and an institution that is both nonprofit and charitable). (BPC §4996.14(a))

5) Restricts an employer from representing employees as social workers unless the workers have degrees from an accredited school of social work. (BPC §4998.95(a))

6) States that this restriction does not apply to a person classified as a social worker prior to January 1, 2014. (BPC §4998.95(b))

7) States that an employer shall not use the titles "Licensed Clinical Social Worker" or "Associate Clinical Social Worker" for its employees unless they hold the appropriate license or registration with the Board. (BPC §4998.95(d))

8) States that an employer who hires someone without a degree in social work from an accredited school of social work to fulfill duties similar to a social worker must give them a different title than "social worker."

9) States that use of the title "social worker" without the appropriate degree is considered an unfair business practice, and is a misdemeanor punishable by imprisonment in county jail for up to six months, and/or a fine of up to $1,000. (BPC §§4998.90(f), 4998.95(f)(1), 4996.12)

10) States that the Board of Behavioral Sciences, the Attorney General, or the district attorney of a county may apply for a superior court to issue an injunction against an employer who uses, or is about to use, the social worker title for someone who does not have a degree from an accredited school of social work. (BPC §4998.95(f)(2))

Comments:

1) Author's Intent. According to the author's office, many public agencies, such as child welfare and adult protective services, and even some private agencies, refer to and classify their caseworkers as social workers, even if the employee does not have a degree in social work from a school accredited by the Council on Social Work Education (CSWE). Hiring individuals as caseworkers who do not have an accredited degree in social work allows the agencies to cope with their large workloads and limited resources. However, they note that

giving these caseworkers a “social worker” title is misleading to consumers, because it implies that the individual has completed the extensive education and experience that an accredited degree in social work requires.

2) **Accredited Degree in Social Work Includes Bachelor’s and Master’s Degrees.** This bill states that an individual who uses the “social worker” title must have a degree from an accredited school of social work, which means that the school must be accredited by the CSWE. The author’s office has stated that the intent of this bill is for the degree to be a either a bachelor’s degree or a master’s degree. They note that the bachelor’s degree students are required to complete at least 400 hours of supervised practicum in the field.

   According to the CSWE’s web site, there are currently 483 accredited baccalaureate social work programs and 223 accredited master's social work programs.

3) **Policies of Other States.** Other states have a variety of policies regarding use of the social worker title. Some restrict use of the title to those with specified degrees. Some do not require a degree but workers in specific positions must pass a test. Several states license social workers at a bachelor’s, master’s, and clinical level. A summary of some of the policies of other states, prepared by NASW-CA, is provided in **Attachment A**.

4) **Social Work Positions Held Prior to January 1, 2014.** This bill contains a provision that allows a person who held a “social worker” title or job classification prior to January 1, 2014, to continue to use that title, even if they do not hold a degree from an accredited school of social work. This may conflict with the intent of the bill, which is to make it clear to consumers that someone who uses the “social work” title has an accredited degree in social work.

5) **Title Act Versus Practice Act.** This bill offers title protection only; it is not a practice act. Title protection only restricts use of a certain title. A practice act restricts the practice of a designated profession unless certain requirements are met. The Board’s four current license types each originate from a practice act.

   This bill would not prohibit unlicensed individuals from working as social workers. It would simply prohibit the use of the title unless they held an accredited degree in social work.

6) **Anticipated Role of the Board** According to the author’s office, this bill would give the board the authority to enforce title protection for social workers, because it is written under a code that is within the Board’s jurisdiction. However, the language is permissive – it states that the Board <u>may</u> apply for an injunction with superior court. As written, the bill does not require any enforcement of the social work title by the Board.

   The author’s main intent of this bill is to focus on agencies, not individuals, misusing the social worker title, because it is the agencies employing these workers and giving them the title. Therefore, the bill prohibits individuals and entities from using the social work title if the employee does not have the appropriate education. The bill would allow, but not require, the District Attorney or Attorney General to apply for an injunction to stop any misuse of the social worker title by these agencies. The author’s office notes that in other states, just having this in law is usually enough to stop employers from misusing the title; typically, little enforcement is needed.

7) **Support and Opposition.**

   Support: NASW-CA (sponsor)

Oppose: None on file.

8) History

2013

Apr. 3	Re-referred to Com. on B.,P. & C.P.
Apr. 2	From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 15	Referred to Com. on B.,P. & C.P.
Feb. 7	From printer. May be heard in committee March 9.
Feb. 6	Read first time. To print.

9) Attachments

Attachment A: Policies in Other States *(Provided by NASW-CA)*

ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
Alabama	No	Social Service Caseworkers
Alaska	No	Child Protective Service Workers
Arizona	No	Child Protective Service Specialists
Arkansas	No	Family Service Workers
California	No; Working on a title protection bill this session	Counties work independently from each other and the state, so some choose to limit the title of "social worker" for those with a SW degree while others do not
Colorado	No	Several titles excluding "social workers"
Connecticut	No, but DSS will be giving preference to BSWs and MSWs and will be communicating with the Commissioner of the Department of Administrative Services to modify the Social Worker job class to only accept those with social work degrees	Social Workers
Delaware	No	Family Service Specialists
Florida	No	Child Protection Workers, Case Managers, Family Coordinators, etc. Exception: You can use "social worker" if it was in your job title prior to July 1st, 2008
Georgia	No	Social Services Protection and Placement Specialists; Case Worker, Social Services Worker
Hawaii	No	Human Services Professionals
Idaho	Yes	Child Welfare Social Workers
Illinois	No	Child Protection Associate Specialist, Child Protection Specialists, Child Protection Advanced Specialists
Indiana	No	Case Managers, Assessment Specialists
Iowa	No	Social Worker II
Kansas	Yes	Social Workers
Kentucky	No	Social Service Workers
Louisiana	No	Case Managers, Investigators, Foster Care Workers, Human Service Providers, etc.
Maine	No	Human Services Caseworkers

Legend:
State that does NOT call individuals without SW degrees "social workers"
State that does call people without SW degrees "social workers"
State that is in transition. Will eventually NOT call individuals without SW degrees "social workers"

ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
Maryland	Yes (A master's in social work is required)	Casework Specialists, Social Worker I & Social Worker II (depending on experience level)
Massachusetts	No; Department of Children and Families' Supervisors must, however, pass a social work licensing test	Social Workers
Michigan	No	Services Specialists
Minnesota	No	Social Workers
Mississippi	No	Family Protection Specialists
Missouri	No. But, workers without a degree have to pass a merit test.	Children Service Workers or Family Service Workers
Montana	No	Child and Adult Protective Specialists
Nebraska	No	Not called social workers unless they have a degree and are certified.
Nevada	Yes	Social worker I, II & III
New Hampshire	No	Child Protective Service Workers I-IV
New Jersey	No	Several titles excluding "social workers"
New Mexico	No	Social Workers
New York	No. Some counties require it, but others do not; Most only receive on-the-job training	Social Worker I and II and Social Work Supervisor I and II usually require an MSW; Social Work Assistant I and II do not
North Carolina	No	Social worker I's, II's & III's
North Dakota	Yes	Social Workers
Ohio	No; Working on a title protection bill this session	Social services workers, Case managers; Only one county calls them social workers, because they only hire those with social work degrees for those positions.
Oklahoma	No	Adult Protective Services Specialists & Child Welfare Specialists
Oregon	No	Social Service Specialists
Pennsylvania	No. But you have to have 12 social science credits.	Case workers if they don't have an MSW degree.
Rhode Island	No; Almost obtained 'social worker' title protection last year; will pursue again with likely success next year	Have to have an MSW and license to be called a "Clincal Social Worker"; The state department union classification of "social worker" does not require a SW degree and uses titles other than "clinical social worker"

ATTACHMENT A
POLICIES IN OTHER STATES
(Provided by NASW-CA)

STATE:	Social Work Degree Required for Child/Adult Protective Services?	Worker Titles:
South Carolina	No	Human Service Specialist II's
South Dakota	No	CPS - Family Services Specialists; APS - Adult Services and Aging Specialists
Tennessee	No	CPS - Case Managers; APS - Social Counselors
Texas	No; preference in statute, but not required by law	Child Protective Services Specialists or Adult Protective Services Specialists.
Utah	No	Case Managers or Protective Services Workers.
Vermont	No	Social Workers
Virginia	No	Social workers until 2013, when their titles will change.
Washington	No	Several titles excluding "social workers"
Wisconsin	No	Those called 'social workers' are required to have a license; there are other titles for those who do not have a social work license
West Virginia	No	CPS Workers and APS Workers
Wyoming	No	Social Services Workers

Source: Provided by NASW-CA.

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AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 252

Introduced by Assembly Members Yamada and Eggman

February 6, 2013

An act to amend Section 4996.14 of, and to add Article 6 (commencing with Section 4998.90) to Chapter 14 of Division 2 of, the Business and Professions Code, relating to social workers.

LEGISLATIVE COUNSEL'S DIGEST

AB 252, as amended, Yamada. Social workers.

Existing law provides for the regulation of licensed clinical social workers. Existing law makes an individual who styles himself or herself as a licensed clinical social worker, without holding a license in good standing, guilty of a misdemeanor. Existing law exempts an individual employed by a government entity, certain academic institutions, an institution that is both nonprofit and charitable, and other specified individuals from that prohibition.

Existing law defines an approved school of social work to mean a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

This bill would prohibit an individual from representing himself or herself as a social worker, unless he or she possesses certain academic ~~qualifications.~~ *qualifications from an accredited school, as specified. This bill would prohibit an employer from representing his or her employee as a social worker, unless that employee possesses certain academic qualifications.* This bill would apply ~~that prohibition~~ *those prohibitions* to an individual employed by a governmental entity, certain

academic institutions, an institution that is both nonprofit and charitable, and other individuals.

~~Existing law defines an approved school of social work to mean a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.~~

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) The profession of social work is over 100 years old and is practiced worldwide. Its mission is to enhance and meet the basic needs of all people, with particular attention to the state's most vulnerable consumers, including families; adults and children suffering from abuse, addiction, mental illness, and disabilities; veterans; the elderly; and all people living in poverty and experiencing oppression who have the right to expect that a person with the title of social worker has the appropriate education, experience, and training.

(b) A social worker possesses a specific body of professional knowledge, training, and experience that is gained when the social worker acquires his or her social work degree from a school accredited by the Commission on Accreditation of the Council on Social Work Education.

(c) A social work degree is based on scientific theory and evidence-based practice.

(d) While this act protects the title of social worker, it does not limit any other health care or social service title.

(e) The public confidence and the consumer's security are paramount, and protecting the social worker title is critical to successful social work for individuals, families, and communities.

SEC. 2. Section 4996.14 of the Business and Professions Code is amended to read:

4996.14. (a) This chapter, except for Article 6 (commencing with Section 4998.90), shall not apply to an employee who is working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(1) A governmental entity.

(2) A school, college, or university.

(3) An institution that is both nonprofit and charitable.

(b) This chapter shall not apply to a volunteer who is working in any of the settings described in subdivision (a) if his or her work is performed solely under the supervision of the entity, school, college, university, or institution.

(c) This chapter shall not apply to a person using hypnotic techniques by referral from any of the following persons if his or her practice is performed solely under the supervision of the employer:

(1) A person licensed to practice medicine.

(2) A person licensed to practice dentistry.

(3) A person licensed to practice psychology.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

SEC. 3. Article 6 (commencing with Section 4998.90) is added to Chapter 14 of Division 2 of the Business and Professions Code, to read:

Article 6. Use of the Designation Social Worker

4998.90. (a) Except as provided in subdivisions (b), (c), and (d), on or after January 1, 2014, only an individual who possesses a degree from an accredited school of social work, as defined in Section 4991.2, may represent himself or herself as a social worker.

(b) This article shall not be construed to apply to an individual who is classified by his or her employer as a social worker if the individual held that classification prior to January 1, 2014.

(c) A graduate of a school in candidacy status, as determined by the Commission on Accreditation of the Council on Social Work Education, or that was in candidacy status at the time the graduate began attending the school, ~~may~~ *shall* not represent

himself or herself as a social worker if the school does not obtain accreditation from the council.

(d) A social worker shall not use the title "Licensed Clinical Social Worker" or "Associate Clinical Social Worker" unless the individual meets the criteria specified under Article 4 (commencing with Section 4996).

(e) It is not the intent of this section to limit the use of any other health care or social service title.

(f) A violation of this ~~chapter~~ *section* is an unfair business practice and is subject to Section 4996.12.

4998.95. (a) Except as provided in subdivisions (b), (c), and (d), on or after January 1, 2014, an employer or principal may only represent his or her employee or agent as a social worker if that employee or agent possesses a degree from an accredited school of social work, as defined in Section 4991.2.

(b) This article shall not be construed to apply to an individual who is classified by his or her employer or principal as a social worker if the individual held that classification prior to January 1, 2014.

(c) An employer or principal shall not represent an employee or agent as a social worker if that employee or agent is a graduate of a school in candidacy status, as determined by the Commission on Accreditation of the Council on Social Work Education, or a graduate of a school that was in candidacy status at the time the graduate began attending the school, until the school has obtained accreditation from the council.

(d) (1) An employer or principal shall not represent an employee or agent by the title "Licensed Clinical Social Worker" or "Associate Clinical Social Worker" unless the employee or agent meets the criteria specified under Article 4 (commencing with Section 4996).

(2) An employer or principal, who hires an individual who does not possess a degree from an accredited school of social work to perform similar duties to that of a social worker, shall represent that employee or agent with a title other than "social worker" or any other term that implies or suggests that the individual possesses a degree from an accredited school of social work.

(e) It is not the intent of this section to limit the use of any other health care or social services title.

(f) (1) A violation of this section is an unfair business practice and is subject to Section 4996.12.

(2) In addition to other proceedings provided in this section, if an employer or principal has engaged, or is about to engage, in an act that constitutes an offense against this section, the superior court in and for the county where the act takes place, or is about to take place, may issue an injunction, or other appropriate order, restraining that conduct on application of the board, Attorney General, or the district attorney of the county.

(g) The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 376 **VERSION:** INTRODUCED FEBRUARY 14, 2013

AUTHOR: DONNELLY **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: REGULATIONS: NOTICE

Existing Law:

1) Establishes the Office of Administrative Law (OAL) in order to review and approve proposed state regulations (Government Code (GC) §11340.1(a))

2) Requires a state entity proposing a regulation to provide a 45-day public comment period, before which notice of the proposed regulation must be mailed to the following (GC §11346.4(a):

   a) Every person who has filed a request for such a notice;

   b) Mailed to a representative number of small business enterprises or their representatives, who are likely to be affected by the proposal;

   c) Mailed to any person or group of persons the state agency believes to be interested in the proposed action;

   d) Published in the California Regulatory Notice Register; and

   e) Posted on the state agency's website.

3) Requires that once a proposed regulation has been approved by OAL, a state entity must post the regulation on its website in an easily marked and identifiable location within 15 days of it being filed with the Secretary of State. (GC §11343(c))

4) Requires the newly adopted regulation to remain posted on the state entity's web site for at least six months. (GC §11343(c))

This Bill:

1) Would require a state agency enforcing a regulation that is promulgated on or after January 1, 2014, to notify a business that is required to comply thirty days before its effective date. (BPC §11344.5(a))

2) Requires the state agency to send notice via email, or if that is not possible, via U.S. Mail. (BPC §11344.5(b))

3) Requires the state agency to cooperate with the Secretary of State to access business records to obtain the business contact information needed to provide the notice. (BPC §11344.5(c))

Comments:

1) Author's Intent. The author notes that a number of businesses are leaving this state, and California is ranked as having one of the worst business climates in the country. This bill is an attempt to ease the regulatory burden on businesses by notifying affected businesses of any new regulations ahead of time, thus giving them time to comply.

2) Board Procedure. The Board already puts considerable effort into ensuring that affected licensees (who may be considered a "business" as they are often in private practice) are notified of pending regulations that affect them. All regulatory proposals currently go before the Board, and the Board's Policy and Advocacy Committee before they are approved, which allows feedback from the Board's professional associations, as well as any interested parties would like to attend and provide feedback.

Once a regulatory proposal is approved by the Board, a 45-day public comment period is held. The Board mails a notice to interested parties who have notified the Board they want to be on the mailing list for these proposals, as well as contacts at the Board's professional associations and contacts at the educational institutions within California that offer degree programs intended to lead to licensure. The notice is also posted on the Board's website, and an email notification is sent to those who subscribe to the Board's notification service through its website.

Once a regulation is adopted and is to become effective, the Board posts information regarding the changes on the website, and sends an email alert to everyone who subscribes to the Board's notification service.

3) Collection of Email Addresses. The Board has the ability to send email alerts of major changes to persons who visit its website and sign up for email notifications (called a "subscriber list"). Applicants are not currently required to provide an email address to the Board, and the Board does not track applicant or licensee emails. Therefore, even if the Board started collecting emails of new licensees, there would be a large number of those for which an email address had not been obtained.

Staff has concerns this bill would affect the Board's ability to run regulations when they are needed, because the bill requires a notification email be sent to all affected parties. First, it would require a significant amount of staff resources to collect and maintain current email addresses for all license types. Second, as currently written, if staff found that upon sending, an email address was no longer valid, a letter would need to be mailed. Tracking this effort would require a significant amount of staff time, at a time when the Board is already short on staff resources.

4) Concerns About Cost. The chart below shows the number of valid licenses and registrants with the Board as of February 1, 2013:

License Type	Total Number
Associate Clinical Social Worker (ASW)	10,412
MFT Interns (IMF)	15,683
Licensed Clinical Social Workers (LCSW)	19,688
Licensed Educational Psychologists (LEP)	1,809
Licensed Marriage and Family Therapists (LMFT)	33,073
Licensed Professional Clinical Counselor (LPCC)	281
Professional Clinical Counselor Interns (PCCI)	173
Total	**81,119**

If the Board ran a regulation package that affected all of its license and registration types, postage costs to mail a letter to all those affected would be approximately 81,119 x $0.46 = $37,314. This does not include costs of materials, printing, or staff time. The Board currently has seven pending regulatory proposals which will likely be approved within the next year.

5) Support and Opposition.

Support:
None on file.

Opposition:
California Labor Federation
California Nurses Association
Health Access California
Sierra Club California

6) History

2013

Apr. 3	In committee: Hearing postponed by committee.
Mar. 11	Referred to Com. on A. & A.R.
Feb. 15	From printer. May be heard in committee March 17.
Feb. 14	Read first time. To print.

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ASSEMBLY BILL No. 376

Introduced by Assembly Member Donnelly

February 14, 2013

An act to add Section 11344.5 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 376, as introduced, Donnelly. Regulations: notice.

The Administrative Procedure Act requires the Office of Administrative Law to provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which is known as the California Code of Regulations, provide for a weekly update of the California Code of Regulations, and provide for the publication of the California Regulatory Notice Register, which includes, but is not limited to, a summary of all proposed regulations filed with the Secretary of State in the previous week.

This bill would require a state agency enforcing a regulation promulgated on or after January 1, 2014, to notify a business that is required to comply with that regulation of the existence of the regulation 30 days before its effective date, and to cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide that notice.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11344.5 is added to the Government Code, to read:

11344.5. (a) An agency enforcing a regulation promulgated on or after January 1, 2014, shall notify a business that is required to comply with that regulation of the existence of the regulation 30 days before the effective date of the regulation.

(b) If possible, an agency shall provide the notice required pursuant to subdivision (a) by electronic mail, and if not possible, then by written letter through the United States mail.

(c) An agency required to provide notice pursuant to this section shall cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide the notice.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 512 **VERSION:** INTRODUCED FEBRUARY 20, 2013

AUTHOR: RENDON **SPONSOR:** LOS ANGELES COUNTY

RECOMMENDED POSITION: NONE

SUBJECT: HEALING ARTS: LICENSURE EXEMPTION

Existing Law:

1) Allows a health care provider who is not licensed in this state to participate in a health care sponsored event in this state without a California license if the following conditions are met (BPC §901(b):

- **a)** He or she is licensed or certified in good standing in the other state; and
- **b)** Submits a copy of his or her valid license from each state he or she is licensed, along with a photo identification, to applicable California licensing board; and
- **c)** Obtains authorization from the applicable California licensing board to participate in the event; and
- **d)** Has not committed any act or been convicted of a crime constituting grounds for denial of licensure in California; and
- **e)** Has appropriate education and experience to participate in a sponsored event, as determined by the California licensing board.

2) The health care services provided pursuant to the provisions of this bill must meet the following conditions: (BPC §901(b))

- **a)** The services are provided to uninsured or underinsured persons;
- **b)** The services are on a short-term, voluntary basis not to exceed 10 days per sponsored event;
- **c)** It is in association with a non-profit or community based sponsoring entity; and,
- **d)** It is without charge to the recipient or to a third party on behalf of the recipient.

3) A "health care practitioner" is defined as any healing arts professional who is licensed and regulated by DCA. (BPC §901(a)(3))

4) Defines a "sponsoring entity" as a nonprofit organization or a community-based organization. (BPC §901(a)(4))

5) Defines a "sponsored event" as an event of less than 10 days that is administered either by a sponsoring entity or a local government, that provides health care to the public without compensation to the health care practitioner. (BPC §901(a)(3))

6) Requires the sponsoring entity providing or arranging the health care services to do the following:

a) Register with each applicable board for which an out-of-state health care practitioner is participating (BPC §901 (d)); and

b) Maintain a copy of each health care practitioner's current license or certificate and require each practitioner to attest in writing that the license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. (BPC §901 (g))

7) These provisions remain in effect until January 1, 2014.

This Bill:

1) This bill extends the above provisions in law until January 1, 2018.

Comments:

1) Author's Intent.

This bill would extend the provisions of AB 2699 (Chapter 270, Statutes of 2010), which expire on January 1, 2014, until January 1, 2018. AB 2699 became effective on January 1, 2011, and its intent was to allow out-of-state healing arts practitioners to participate in government or non-profit sponsored health care events to provide health care services to the uninsured.

The author notes that there are two million uninsured people living in Los Angeles County. At a recent four-day annual health care event, approximately 4,900 people received free medical, vision, and dental care, which was provided by 800 doctors, dentists, optometrists, nurses, and other volunteers.

In the past, events like these have experienced a shortage of volunteer medical, dental and vision providers because of restrictions in state licensing laws which prohibit volunteer out-of-state medical personnel from providing short-term services. As a result, thousands of residents needing service were turned away. The intent of AB 2699 was to resolve this issue by allowing out-of-state practitioners to volunteer for this type of event.

As part of AB 2699, healing arts boards were required to promulgate regulations in order to implement this program. As of August 2012, the medical board's regulations were not yet in effect, and therefore out of state physicians were not able to volunteer at last fall's event. As the provisions of AB 2699 are set to expire before many boards have had a chance to promulgate regulations, the author's office is seeking to extend its provisions to allow more time to demonstrate the potential for the program's success.

2) Status of Board Regulations.

Due to the immediate staffing needs related to the Board's new LPCC license, the examination restructure, and the new Breeze database system, staff has not been able to complete the AB 2699 regulations at this time. However, the Board anticipates submitting the regulations to the Office of Administrative Law (OAL) in April 2013.

3) Utilization of Mental Health Professionals.
The Board has not had any requests from out-of-state practitioners for permission to participate in any non-profit health care events. A representative from the sponsor of the bill, Los Angeles County, noted that on occasion, prior events have utilized the services of the Los Angeles County Department of Mental Health, as well as a substance abuse agency located in Los Angeles.

4) Support and Opposition.

Support: Los Angeles County (Sponsor)

Opposition: None at this time.

5) History

2013

Mar. 4	Referred to Com. on B.,P. & C.P.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 20	Read first time. To print.

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ASSEMBLY BILL No. 512

Introduced by Assembly Member Rendon

February 20, 2013

An act to amend Section 901 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as introduced, Rendon. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

Existing law provides, until January 1, 2014, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. Existing law also requires an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing

board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board.

This bill would delete the January 1, 2014, date of repeal, and instead allow the exemption to operate until January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 901 of the Business and Professions Code is amended to read:

901. (a) For purposes of this section, the following provisions apply:

(1) "Board" means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) "Health care practitioner" means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) "Sponsored event" means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) "Sponsoring entity" means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) "Uninsured or underinsured person" means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she does all of the following:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (d).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to

comply with this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that

his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall

not affect other provisions or applications that can be given effect without the invalid provision or application.

(*l*) This section shall remain in effect only until January 1, ~~2014,~~ *2018,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014,~~ *2018,* deletes or extends that date.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 790 **VERSION:** INTRODUCED FEBRUARY 21, 2013

AUTHOR: GOMEZ **SPONSOR:** CALIFORNIA POLICE CHIEFS ASSOCIATION

RECOMMENDED POSITION: NONE

SUBJECT: CHILD ABUSE: REPORTING

Existing Law:

1) Specifies that licensees of the Board of Behavioral Sciences (Board) are mandated reporters under the Child Abuse and Neglect Reporting Act and as such, he or she must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect. (Penal Code (PC) §§11165.7(a)(21) – (25) and 11166(a))

2) Requires mandated reports of suspected child abuse or neglect be made to any police or sheriff's department, the county probation department, or the county welfare department. (PC §11165.9)

3) Requires the initial mandated report to be made via telephone immediately or as soon as practicably possible. A written follow-up report must then be sent within 36 hours of receipt of information about the incident. (PC §11166(a))

4) States that when two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect and are in agreement, that the telephone report may be made by a mutually designated reporter on behalf of the group One written report may then be made and signed by that designated member. If any members learn that the member designated to make the mandated report did not do so, then they must make the report. (PC §11166(h))

This Bill:

1) Deletes the provision that allows a team of mandated reporters to designate one member to make a single mandated report. Therefore, all mandated reporters who obtain knowledge of suspected child abuse or neglect would be required to make their own report.

Comment:

1) Author's Intent. The author's office reports that allowing a team of mandated reporters to make a single report about a case of suspected child abuse creates an opportunity for such abuse to go unreported. They note that this reporting exemption also delays immediate reporting, by implying that the team of mandated reporters may first meet to discuss the situation and decide who is to report it. This would be harmful to the child who is potentially being abused.

In addition, the author indicates that agencies that receive the mandated reports benefit from multiple reports, because it allows them to compile a list of all witnesses, and provides different perspectives from the various mandated reporters that can be helpful in an investigation.

Finally, there is a concern that having only one designated reporter may allow that reporter, if he or she is personally involved in the abuse or has a personal relationship with the abuser, an opportunity to conceal or cover up that involvement.

2) Recent Example.

In its analysis of this bill, the Assembly Committee on Public Safety cites a recent case where a teacher pulled a 5-year old student from his chair and kicked him. School employees reported the incident to their superiors, however they decided to investigate the incident internally instead of making a mandated report. Eventually, the child's parents learned of the incident and called the police.

3) Support and Opposition.

Support:
American Federation of State, County and Municipal Employees
California Police Chiefs Association
County Welfare Directors Association of California

Opposition:
California Public Defenders Association
California Association of Marriage and Family Therapists

4) History

2013

Apr. 3	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 2). Re-referred to Com. on APPR.
Mar. 4	Referred to Com. on PUB. S.
Feb. 22	From printer. May be heard in committee March 24.
Feb. 21	Read first time. To print.

ASSEMBLY BILL No. 790

Introduced by Assembly Member Gomez

February 21, 2013

An act to amend Section 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 790, as introduced, Gomez. Child abuse: reporting.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law further requires the mandated reporter to make an initial report by telephone to the agency immediately or as soon as is practicably possible, and to prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.

Existing law additionally provides that, when 2 or more mandated reporters have joint knowledge of suspected child abuse or neglect, they may select a member of the team by mutual agreement to make and sign a single report. Any member who has knowledge that the member designated to report has failed to do so is required to thereafter make the report.

This bill would delete these latter provisions, thus requiring every mandated reporter who has knowledge of suspected child abuse or neglect to make a report, as specified.

Because this bill would expand the definition of a crime, it would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the State Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why

the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any

custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited, to any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which

the images or material are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (41) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

~~(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.~~

~~(i)~~

(h) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

~~(j)~~

(i) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information

concerning the incident to any agency to which it makes a telephone report under this subdivision.

~~(k)~~

(j) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1057 **VERSION:** AMENDED APRIL 9, 2013

AUTHOR: MEDINA **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONS AND VOCATIONS: LICENSES: MILITARY SERVICE

Existing Law:

1) Requires healing arts boards under the Department of Consumer Affairs (DCA) to provide methods of evaluating education, training, and experience obtained in military service if the training is applicable to the requirements of the profession. (Business and Professions Code (BPC) §710)

2) Allows a licensee or registrant of any board, commission, or bureau within DCA to reinstate his or her license without examination or penalty if the license expired while he or she was on active duty with the California National Guard or the United States Armed Forces. The following conditions must be met (Business and Professions Code (BPC §114(a)):

a) The license or registration must have been valid at the time of entrance into the California National Guard or the United States Armed Forces.

b) The application for reinstatement must be made while actively serving, or no later than one year from the date of discharge from active service or return to inactive military status; and

c) The applicant must submit an affidavit stating the date of entrance into the service, whether still in the service or the date of discharge, and he or she must also submit the renewal fee for the current renewal period.

3) The application for reinstatement must be filed within one year of discharge or return to inactive military status, otherwise, the licensing agency may require the applicant to pass an exam. (BPC §114(b)).

4) The licensing agency may also require the applicant to pass an exam if the applicant has not practiced his or her profession while on active duty. (BPC §114(c))

5) Requires boards under DCA to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active duty as a military member if he or she held a valid license or registration upon being called to active duty, and substantiates the active duty service. (BPC §114.3)

This Bill:

1) Requires boards within DCA to ask, on all licensing applications, if the applicant is serving in or previously had served in the military. This requirement would begin on January 1, 2015. (BPC §114.5)

Comments:

1) Author's Intent. While licensing boards under DCA are required to have a process for methods of evaluating education, training, and experience obtained in the military, the boards do not ask on the licensing application whether or not the applicant is or has been in the military. The intent of this bill is to make it easier for boards to identify applicants who may have applicable military training or experience.

2) Current Board Process: The Board evaluates military education and experience on a case-by-case basis. The Board reviews the applicant's education and experience to determine if it meets the licensure requirements currently in statute.

The Board does not currently have the ability to track the number of licensees who are members of the military. However, for the past several years, the Board has tracked the number of licensees who have requested a continuing education exemption due to military service. This is typically a very small number, as summarized below:

Year	Number of Licensees Requesting a CE Exemption Due to Military Service
2012	2
2011	0
2010	1
2009	1
2008	0
2007	1
2006	5

3) New DCA Breeze Database System: DCA is in the process of converting its boards and bureaus to a new database system, called Breeze. This system will easily accommodate this new information, allowing the Board to keep data on how many of its applicants are in the military or are veterans.

4) Related Legislation.

AB 186 (Maienschein) would require a board within DCA to issue a provisional license to an applicant who is eligible for an expedited license. Such an applicant must be married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, and must hold a current license in the same profession in another state.

AB 213 (Logue) would require a board that accredits or approves schools offering education course credits toward licensing requirements to require a school seeking such an approval to prove it has procedures in place to evaluate military education, training, and experience.

AB 555 (Salas) would require a board to within DCA to consider any relevant training an applicant received while serving in the military.

5) Support and Opposition.

Support:
None on file.

Opposition:
None on file.

6) History

2013

Mar. 7	Referred to Com. on B.,P. & C.P.
Feb. 25	Read first time.
Feb. 24	From printer. May be heard in committee March 26.
Feb. 22	Introduced. To print.

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AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1057

Introduced by Assembly Member Medina

February 22, 2013

An act to add Section 114.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1057, as amended, Medina. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to, upon application, reinstate his or her license without penalty and without examination, if certain requirements are satisfied, unless the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, as specified.

This bill would require each board, *commencing January 1, 2015,* to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 114.5 is added to the Business and Professions Code, to read:

114.5. ~~Each~~ *Commencing January 1, 2015, each* board shall inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 22 **VERSION:** AMENDED APRIL 2, 2013

AUTHOR: BEALL **SPONSOR:** CALIFORNIA PSYCHIATRIC ASSOCIATION

RECOMMENDED POSITION: NONE

SUBJECT: HEALTH COVERAGE: MENTAL HEALTH PARITY

Existing Law:

1) Requires health care service plan contracts and disability insurance policies that provide hospital, medical or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, regardless of age, and of serious emotional disturbances of a child. (Health and Safety Code §1374.72(a), Insurance Code 10144.5(a)).

2) Defines "severe mental illnesses" as follows (HSC §1374.72(d), IC §10144.5(d)):

- Schizophrenia.
- Schizoaffective disorder.
- Bipolar disorder (manic-depressive illness).
- Major depressive disorders.
- Panic disorder.
- Obsessive-compulsive disorder.
- Pervasive developmental disorder or autism.
- Anorexia nervosa.
- Bulimia nervosa.

3) Defines "serious emotional disturbances of a child" as a child who has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders IV (DSM IV) (other than a primary substance use disorder or development disorder) that results in age-inappropriate behavior (HSC §1374.72(e), IC §10144.5(e)). One or more of the following criteria must also be met (HSC §5600.3(a)(2)):

(A) As a result of the mental disorder, the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.
(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.

(C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

4) Requires the benefits provided to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs (if the plan includes prescription drug coverage). (HSC §1374.72(b), IC §10144.5(b)).

5) Requires that maximum lifetime benefits, copayments, and individual and family deductibles that apply to these benefits have the same terms and conditions as they do for any other benefits under the plan contract. (HSC §1374.72(c), IC §10144.5(c)).

6) The Pall Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), known as MHPAEA, is a federal law that requires group health plans that offer mental health or substance use disorder benefits to ensure financial requirements (i.e. copays and deductibles) and treatment limitations (i.e. visit limits) for mental health or substance use disorders are not more restrictive than the requirements on all other covered medical benefits.

7) The federal MHPAEA applies to insurance plans with more than 50 employees.

This Bill:

1) Beginning January 1, 2014, requires every health care service plan and contractor of a health care service plan, and health insurer to submit an annual report to the Department of Managed Health Care or Department of Insurance, as applicable. The report must certify that the plan is compliant with applicable state law, and the MHPAEA. (HSC §1374.18, IC §10144.53)

2) Requires the annual report submitted by the health plan or insurer to be a public record that is available upon request, and also posted on the Department of Managed Health Care or Department of Insurance's web site. (HSC §1374.18, IC §10144.53)

3) Requires the report to contain an analysis of the plan's compliance with state law and the MHPAEA regarding mental health parity, as well as the plan's compliance with specified standards set forth in the American Accreditation HealthCare Commission's (URAC) Health Plan Accreditation Guide. (HSC §1374.18, IC §10144.53)

4) Requires the report to contain a survey of plan enrollees regarding their experiences with mental health and substance use care, and a survey of plan providers regarding their experience with providing mental health and substance use care. (HSC §1374.18, IC §10144.53)

5) Does not apply to contracts between the Department of Health Care Services and a health plan for enrolled Medi-Cal beneficiaries. (HSC §1374.18, IC §10144.53)

Comments:

1) Author's Intent. The author's office notes that state and federal parity laws that mandate mental health coverage are a good first step, but that in California, these laws are not being enforced sufficiently. This is because enforcement of the laws is based on complaints. If mental health providers and patients don't complain, there is no way to ensure compliance.

The purpose of this bill is to require health plans and insurers to submit annual reports to regulators. These reports will demonstrate the plan's compliance with parity laws. They will include feedback from consumers and mental health providers regarding their ability to access or provide mental health care under the plan.

2) **General Information About Mental Health Parity Laws.** Parity laws require insurance coverage for mental health to be equal to or better than insurance already provided for other medical and surgical benefits, including maximum lifetime benefits, co-payments, and deductibles. Currently, there are both federal and state parity laws.

   The federal 2010 Patient Protection and Affordable Care Act (PPACA, also known as national health care reform) requires private insurance plans to include certain mental health and substance use disorder treatment beginning in 2014. The mental health and substance use disorders covered are to be determined through rulemaking.

   California's current mental health parity law, AB 88, was enacted in 2000. The bill requires health plans to provide coverage for mental health services that are equal to medical services. However, they are required to cover only certain diagnoses that are defined as a severe mental illness or a serious emotional disturbance of a child.

3) **Federal Mental Health Parity Act.** The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted in October 2008. The Act amended the Mental Health Parity Act of 1996. The MHPAEA banned differences in co-pays, deductibles, coinsurance, out of network coverage, out of pocket expenses and treatment limitations such as caps on visits, limits on days, and limits on duration of treatment for mental health or addiction therapy. This law does not apply to employers with fewer than 50 employees.

   The passage of the MHPAEA did not mandate mental health or substance use disorder benefit coverage but only stated that if mental health/substance use disorder benefits are offered through a health insurance plan, that those benefits must not be more restrictive or limiting than those offered for medical and surgical coverage under the plan.

   This bill requires the annual report that a health care provider or insurer must complete, to include an analysis of compliance with the MHPAEA.

4) **Utilization Review Accreditation Commission (URAC) Mental Health Parity Standards.** The Utilization Review Accreditation Commission (URAC) is a nonprofit organization that develops quality measures and provides health plan accreditation. It is the first such organization to add compliance with the MHPAEA to its accreditation standards.

   This bill incorporates certain URAC accreditation standards into the report a health care provider or insurer must complete. The standards that must be considered in each annual report are summarized as follows:

   a) **URAC Standard P-MHP 1:** Analysis of Compliance with Mental Health Parity Law

   b) **URAC Standard P-MHP 2:** Utilization Management Protocols Applied to Mental Health/Substance Use Disorder Benefits

   c) **URAC Standard P-MHP 3:** Mental Health/Substance Use Disorder Parity Addressed in Contractor Written Agreements.

   These standards are defined in more detail in **Attachment B.**

5) Related Legislation. AB 154 (Beall, 2012) would have required a health care plan to provide coverage for the diagnosis and medically necessary treatment of a mental illness under the same terms and conditions applied to other medical conditions. Current mental health parity laws only require coverage for severe mental illness and a child's severe emotional disturbance. The Board supported this bill, but it failed passage in the Senate Health Committee.

AB 423 (Beall, 2007), AB 1887 (Beall, 2008) and AB 244 (Beall, 2009) were all very similar to AB 154. All three were vetoed by Governor Schwarzenegger. The Board took a position of "support" on these bills as well.

6) Support and Opposition.

Support: None at this time.

Oppose: None at this time.

7) History

2013

Apr. 2	From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH. Set for hearing April 10.
Mar. 27	Hearing postponed by committee.
Mar. 15	Set for hearing April 3.
Mar. 11	Re-referred to Coms. on HEALTH and JUD.
Feb. 26	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Jan. 10	Referred to Com. on RLS.

2012

Dec. 4	From printer. May be acted upon on or after January 3.
Dec. 3	Introduced. Read first time. To Com. on RLS. for assignment. To print.

8) Attachments.

Attachment A: Fact Sheet: The Mental Health Parity and Addiction Equity Act of 2008 *(by the United States Department of Labor, Employee Benefits Security Administration)*

Attachment B: Summary of URAC Health Plan Accreditation Guide Standards P-MHP 1, P-MHP-2, AND P-MHP-3

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Fact Sheet

U.S. Department of Labor
Employee Benefits Security Administration
January 29, 2010

The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)

MHPAEA, which amended the Public Health Service Act, the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, generally is effective for plan years beginning on or after October 3, 2009. For calendar year plans, the effective date is January 1, 2010. The Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury will publish in the Federal Register an interim final rule implementing the provisions of MHPAEA on February 2, 2010. The regulation is effective on April 5, 2010, and applicable to plan years beginning on or after July 1, 2010.

Background

- The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires group health plans and health insurance issuers to ensure that financial requirements (such as co-pays, deductibles) and treatment limitations (such as visit limits) applicable to mental health or substance use disorder (MH/SUD) benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical/surgical benefits.

- MHPAEA applies to plans sponsored by private and public sector employers with more than 50 employees, including self-insured as well as fully insured arrangements. MHPAEA also applies to health insurance issuers who sell coverage to employers with more than 50 employees.

- The DOL and the IRS generally have enforcement authority over private sector employment-based plans that are subject to ERISA. HHS has direct enforcement authority with respect to self-funded non-Federal governmental plans. While State insurance commissioners have primary authority over issuers in the large group market, HHS has secondary enforcement authority.

- MHPAEA supplements prior provisions under the Mental Health Parity Act of 1996 (MHPA), which required parity with respect to aggregate lifetime and annual dollar limits for mental health benefits. DOL, HHS and Treasury issued regulations under MHPA in 1997. The MHPAEA interim final rule amends and modifies certain provisions in the MHPA regulations.

- Although MHPAEA provides significant new protections to participants in group health plans, it is important to note that MHPAEA does not mandate that a plan provide MH/SUD benefits. Rather, if a plan provides medical/surgical and MH/SUD benefits,

it must comply with the MHPAEA's parity provisions. Also, MHPAEA does not apply to issuers who sell health insurance policies to employers with 50 or fewer employees or who sell health insurance policies to individuals.

MHPAEA Continues and Expands MHPA

- As noted above, MHPA required parity with respect to aggregate lifetime and annual dollar limits. However, MHPA did not apply to substance use disorder benefits. MHPAEA continued the MHPA parity rules as to limits for mental health benefits, and amended them to extend to substance use disorder benefits.
- Therefore, plans and issuers that offer substance use disorder benefits subject to aggregate lifetime and annual dollar limits must comply with the MHPAEA's parity provisions.
- The regulations demonstrate how the expanded rules apply, and update certain defined terms and examples as necessary.

Additional MHPAEA Protections Relating to Financial Requirements

- Under MHPAEA, if a plan or issuer that offers medical/surgical and MH/SUD benefits imposes "financial requirements" (such as deductibles, copayments, coinsurance and out of pocket limitations), the financial requirements applicable to MH/SUD benefits can be no more restrictive than the "predominant" financial requirements applied to "substantially all" medical/surgical benefits.
- The regulations provide that the "predominant/substantially all" test applies to six classifications of benefits on a classification-by-classification basis. The regulation also includes other rules and definitions that are necessary in order for plans, issuers and their advisers to apply this general parity test.

Additional MHPAEA Protections Relating to Treatment Limitations

- MHPAEA also provides similar protections for treatment limitations. "Treatment limitations" mean limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.
- The regulation clarifies that there may be both quantitative and non-quantitative treatment limitations, and provides rules for each. Since they are similar to financial requirements, quantitative treatment limitations are subject to the same general test as the financial requirements discussed above.
- Because non-quantitative treatment limitations (such as medical management standards, formulary design, and determination of usual/customary/reasonable amounts) apply differently, the regulation includes a separate parity requirement for them.

Parity with Respect to Out of Network Benefits

- If a plan or issuer that offers medical/surgical benefits on an out-of-network basis also offers MH/SUD benefits, it must offer the MH/SUD benefits on an out-of-network basis as well.

MHPAEA Availability of Plan Information Requirements

- MHPAEA requires that plans make certain information available with respect to MH/SUD benefits. First, the criteria for medical necessity determinations with respect to MH/SUD benefits must be made available to any current or potential participant, beneficiary, or contracting provider upon request.
- MHPAEA also provides that the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits must be made available, upon request or as otherwise required, to the participant or beneficiary.
- The regulation clarifies that, for non-Federal governmental plans (which are not subject to ERISA), and health insurance coverage offered in connection with such plans, compliance with the form and manner of the ERISA claims procedure regulations for group health plans satisfies this disclosure requirement.

Exemptions from MHPAEA

- MHPAEA retains the exemption for small employers contained in MHPA. MHPAEA modified the exemption contained in MHPA based on increased cost in several respects, which are explained in the statute.
- The MHPAEA regulation updates the small employer exemption, withdraws the MHPA regulations concerning the increased cost exemption, and reserves paragraph (g) for additional future guidance.

Additional Issues

- The MHPAEA interim final rule is intended to address the most pressing issues that affect the ability of plans and issuers to comply in the near term. The Departments noted several issues in the preamble, and specifically requested comments on:

  - Whether additional examples would be helpful to illustrate the application of the non-quantitative treatment limitation rule to other features of medical management or general plan design;
  - Whether and to what extent MHPAEA addresses the "scope of services" or "continuum of care" provided by a group health plan or health insurance coverage;
  - What additional clarifications might be helpful to facilitate compliance with the disclosure requirement for medical necessity criteria or denials of MH/SUD benefits; and
  - Implementing the new statutory requirements for the increased cost exemption under MHPAEA, as well as information on how many plans expect to use the exemption.

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Attachment B

Summary of URAC Health Plan Accreditation Guide Standards

(From URAC Regulatory Compliance Document, January 3, 2012)

P-MHP 1 - Analysis of Compliance with Mental Health Parity Law
For each *health benefit plan* product that provides mental health and/or substance use disorder(MH/SUD) services that is included in its application for this accreditation, the *organization* will provide written documentation of one of the following:
(No Weight)
(a) An affirmative declaration, signed by a principal of the organization, indicating that the identified product is in "exempt status" with regards to the applicable federal and/or state law or regulation and any binding regulatory or sub-regulatory guidance related thereto, including the statutory/regulatory basis for the exempt status; **or**

(b) If not exempt, a detailed analysis of the identified product documenting its compliance with the applicable federal and/or state law or regulation and any binding regulatory or sub-regulatory guidance related thereto, demonstrating that for the MD/SUD services provided, including applicable pharmacy benefits, the *organization* does not have more restrictive:
(No Weight)

(i) Financial requirements;

(ii) Quantitative treatment limitations; **and**

(iii) Nonquantitative treatment limitations.

P-MHP 2 - UM Protocols Applied to MH/SUD Benefits
For all of the *uitlization management* protocols applied to mental health and/or substance use disorder (MH/SUD) benefits, the *organization* will provide a detailed analysis demonsrating that these *utilization management* protocols do not have more restrictive nonquantitative treatment limitations.

P-MHP 3 - MH/SUD Parity Addressed in Contractor Written Agreements
The *organization* enters into *written agreements* with *contractors* providing mental health and/orsubstance use disorder (MH/SUD) health care services that:
(No Weight)

(a) Meet the requirements set forth in standards P-NM 8-10; **and**

(b) Specify that the *contractor* shall comply with, and maintain parity between the MH/SUD benefits it administers and the *organization's* medical/surgical benefits pursuant to the applicable federal and/or state law or regulation and any binding regulatory or subregulatory guidance related thereto.

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AMENDED IN SENATE APRIL 2, 2013

AMENDED IN SENATE FEBRUARY 26, 2013

SENATE BILL No. 22

Introduced by Senator Beall
(Coauthors: Senators Correa, De León, DeSaulnier, and Yee)
(Coauthors: Assembly Members Ammiano and Chesbro)

December 3, 2012

An act to add Section 1374.18 to the Health and Safety Code, and to add Section 10144.53 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 22, as amended, Beall. Health care coverage: mental health parity.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts or health insurance policies issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, and of serious emotional disturbances of a child, as specified, under the same terms and conditions applied to other medical conditions.

Existing federal law, the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires group health plans and health insurance issuers to ensure that financial requirements and treatment limitations applicable to mental health or substance use disorder benefits are no more restrictive than the predominant requirements or limitations applied to substantially all

medical and surgical benefits. Existing state law requires individual and small group health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2014, to comply with MHPAEA.

This bill would, on or after July 1, 2014, require every health care service plan, contractor of a health service plan, and health insurer to submit an annual report to the Department of Managed Health Care or the Department of Insurance, as appropriate, certifying compliance with specified state laws and the MHPAEA, except as provided. The bill would require the reports to be a public record made available upon request and to be published on the respective department's Internet Web site. The bill would require a plan, contractor, and health insurer to provide an analysis of the entity's compliance with the law using certain mental health parity standards and to conduct surveys of enrollees, insureds, and providers as part of the report, as specified. *The bill would prohibit the inclusion of any information that may individually identify enrollees or insureds in the reports submitted to the respective departments pursuant to the provisions described above.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1374.18 is added to the Health and Safety Code, to read:

1374.18. (a) On and after July 1, 2014, every health care service plan and contractor of a health care service plan shall submit an annual report to the department certifying compliance with Section ~~1274.72~~ *1374.72* and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), hereafter referred to as the MHPAEA, its implementing regulations, and all related federal guidance. The annual report shall be a public record made available upon request and shall be published on the department's Internet Web site. The department may hold public hearings on the reports at its own discretion or at the request of any person.

(b) The report shall provide an analysis of the plan's or contractor's compliance with Section ~~1274.72~~ *1374.72* and the MHPAEA using all of the elements set forth in those provisions of law, as well as in standards P-MHP 1, P-MHP 2, and P-MHP

3 of the American Accreditation HealthCare Commission (URAC) Health Plan Accreditation Guide, Version 7, or any subsequent versions.

(c) (1) As part of the report, a plan or contractor shall conduct both of the following:

(A) A survey of enrollees to collect responses pertaining to enrollee experiences with mental health and substance use care.

(B) A survey of providers to collect responses pertaining to provider experiences with providing mental health and substance use care.

(2) The plan or contractor shall use the compliance criteria set forth in the URAC *mental health parity* standards described in subdivision (b) to structure the surveys.

(d) A report submitted to the department pursuant to this section shall not include any information that may individually identify enrollees, including, but not limited to, medical record numbers, names, and addresses.

~~(d)~~

(e) This section shall not apply to contracts entered into pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of *Part 3 of* Division 9 ~~of Part 3~~ of the Welfare and Institutions Code, between the State Department of Health Care Services and a health care service plan for enrolled Medi-Cal beneficiaries.

SEC. 2. Section 10144.53 is added to the Insurance Code, to read:

10144.53. (a) On and after July 1, 2014, every health insurer shall submit an annual report to the Department of Insurance certifying that its health insurance policies comply with Section 10144.5 and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343), hereafter referred to as the MHPAEA, its implementing regulations, and all related federal guidance. The annual report shall be a public record made available upon request and shall be published on the department's Internet Web site. The department may hold public hearings on the reports at its own discretion or at the request of any person.

(b) The report shall provide an analysis of the insurer's compliance with Section 10144.5 and the MHPAEA using all of the elements set forth in those provisions of law, as well as in

standards P-MHP 1, P-MHP 2, and P-MHP 3 of the American Accreditation HealthCare Commission (URAC) Health Plan Accreditation Guide, Version 7, or any subsequent versions.

(c) (1) As part of the report, an insurer shall conduct both of the following:

(A) A survey of insureds to collect responses pertaining to insured's experiences with mental health and substance use care.

(B) A survey of providers to collect responses pertaining to provider ~~experience~~ *experiences* with providing mental health and substance use care.

(2) The insurer shall use the compliance criteria set forth in the URAC mental health parity standards described in subdivision (b) to structure the surveys.

(d) A report submitted to the department pursuant to this section shall not include any information that may individually identify insureds, including, but not limited to, medical record numbers, names, and addresses.

~~(d)~~

(e) This section shall not apply to policies or health benefit plans issued pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of *Part 3 of* Division 9 ~~of Part 3~~ of the Welfare and Institutions Code, between the State Department of Health Care Services and an insurance policy or health benefit plan for enrolled Medi-Cal beneficiaries.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: **SB 126** **VERSION:** **AS INTRODUCED, JANUARY 23, 2013**

AUTHOR: **STEINBERG** **SPONSOR:** **AUTISM SPEAKS**

RECOMMENDED POSITION: **NONE**

SUBJECT: **HEALTH CARE COVERAGE- AUTISM**

Existing Law:

- Provides for the licensure and regulation of health care service plans by the Department of Managed Health Care.
- Provides for the regulation of health insurers by the Department of Insurance.
- Requires health care service plan contracts and health insurance policies to provide benefits, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified.
- Provides that a willful violation of these provisions with respect to health care service plans is a crime.
- Makes these provisions inoperative on July 1, 2014, and repealed on January 1, 2015.

his Bill:

- Extend the operation of the above provisions until July 1, 2019, and would repeal these provisions on January 1, 2020.

Comment:

1) **Intent.** According to the author's office, this bill is necessary to ensure that treatment for individuals with pervasive development disorder or autism (PDD/A) remains covered under insurance plans that are regulated by the state of California.

2) **Previous Legislation.**
   - **SB 946 (Chapter 650, Statues of 2011)** requires, no later than July 1, 2012, that every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

3) Support and Opposition.

Support:

- Autism Speaks (Sponsor)

Opposition:

- None on file.

4) History

2013

Apr. 2	Hearing postponed by committee.
Mar. 15	Set for hearing April 10.
Jan. 31	Referred to Com. on HEALTH.
Jan. 23	From printer. May be acted upon on or after February 22.
Jan. 22	Introduced. Read first time. To Com. on RLS. for assignment.To print.

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SENATE BILL No. 126

Introduced by Senator Steinberg

January 22, 2013

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Sections 10144.51 and 10144.52 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 126, as introduced, Steinberg. Health care coverage: pervasive developmental disorder or autism.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified. A willful violation of these provisions with respect to health care service plans is a crime. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015.

This bill would extend the operation of these provisions until July 1, 2019, and would repeal these provisions on January 1, 2020. By extending the operation of provisions establishing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1374.73 of the Health and Safety Code is amended to read:

1374.73. (a) (1) Every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an ~~individualized~~ *individual* service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400, et seq.) and its implementing regulations.

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the health care service plan upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior

Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(d) This section shall not apply to the following:

(1) A specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.

(2) A health care service plan contract in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A health care service plan contract in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).

(4) A health care benefit plan or contract entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 1374.72.

(f) As provided in Section 1374.72 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) This section shall become inoperative on July 1, ~~2014~~ *2019*, and, as of January 1, ~~2015~~ *2020*, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2015~~ *2020*, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 10144.51 of the Insurance Code is amended to read:

10144.51. (a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health insurers will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act ~~(P.L.~~ *(Public Law* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(P.L.~~*(Public Law* 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an ~~individualized~~ *individual* service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health insurer from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient's behavioral health impairments to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

(iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the insurer upon request.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 10144.5.

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior

Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) "Qualified autism service paraprofessional" means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(d) This section shall not apply to the following:

(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

(2) A health insurance policy in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A health insurance policy in the Healthy Families Program (Part 6.2 (commencing with Section 12693)).

(4) A health care benefit plan or policy entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 10144.5.

(f) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health insurer may utilize case management, network providers,

utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) This section shall become inoperative on July 1, ~~2014~~ *2019*, and, as of January 1, ~~2015~~ *2020*, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2015~~ *2020*, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 10144.52 of the Insurance Code is amended to read:

10144.52. (a) For purposes of this part, the terms "provider," "professional provider," "network provider," "mental health provider," and "mental health professional" shall include the term "qualified autism service provider," as defined in subdivision (c) of Section 10144.51.

(b) This section shall become inoperative on July 1, ~~2014~~ *2019*, and, as of January 1, ~~2015~~ *2020*, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2015~~ *2020*, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 282 **VERSION:** INTRODUCED FEBRUARY 14, 2013

AUTHOR: YEE **SPONSOR:** CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)

RECOMMENDED POSITION: NONE

SUBJECT: CONFIDENTIAL MEDICAL INFORMATION: REQUIRED AUTHORIZATION TO DISCLOSE

Existing Law:

1) Requires that when a patient makes a complaint against a physician or surgeon that demands a settlement or includes an offer to compromise, the demand or offer must be accompanied by the patient's authorization to disclose medical information to the organizations insuring or defending the physician or surgeon. (Civil Code (CC) §56.105)

2) Requires an authorization for release of medical information to state the following (CC §56.11):

- The specific uses and limitations on the types of medical information disclosed;
- The name or functions of the provider that may disclose the medical information;
- The name or functions of the persons/entities authorized to receive the medical information; and
- The specific uses and limitations on the use of the medical information by the persons or entities authorized to receive it.

3) Requires notice be given to the patient if any medical information is requested under the authorization. The notice must include the requested subject matter, dates of materials, and must authorize the patient to request copies of the information. (CC §56.105)

This Bill:

1) There is a provision in law that requires a settlement or compromise offer against a physician or surgeon to be accompanied by authorization to disclose medical information. This bill proposes an amendment to also apply this requirement to settlement or compromise offers against a licensed marriage and family therapist (LMFT).

Comment:

1) **Author's Intent.** According to the author's office, this bill seeks to protect LMFTs from claims of breaching confidentiality under the Confidentiality of Medical Information Act when they provide patient medical information to their medical malpractice insurer in order to

defend themselves in a demand for settlement or offer of compromise. This protection is already allowed to physicians and surgeons in the law, and the author sees no reason why LMFTs should not be included as well.

The author's office further notes that requiring the patient's authorization to release these records to the insurer will allow the insurer to evaluate and respond to claims in a timely manner.

2) Support and Opposition.

Support:

- None on file.

Opposition:

- None on file.

3) History

2013

Feb. 28	Referred to Com. on JUD.
Feb. 15	From printer. May be acted upon on or after March 17.
Feb. 14	Introduced. Read first time. To Com. on RLS. for assignment. To print.

SENATE BILL No. 282

Introduced by Senator Yee

February 14, 2013

An act to amend Section 56.105 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as introduced, Yee. Confidential medical information: required authorization to disclose.

The Confidentiality of Medical Information Act requires, among other things, that a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a specifically certified physician and surgeon be accompanied by an authorization to disclose medical information to the persons or organizations insuring, responsible for, or defending the professional liability of the physician and surgeon in order to allow an evaluation of the merits of the demand for settlement or offer of compromise.

This bill would extend these provisions to require that the authorization to disclose medical information also accompany a demand for settlement or offer to compromise issued on a patient's behalf prior to the service of a complaint in any action arising out of the professional negligence of a person holding a valid license as a marriage and family therapist, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 56.105 of the Civil Code is amended to read:

56.105. Whenever, prior to the service of a complaint upon a defendant in any action arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, *or a person holding a valid license as a marriage and family therapist issued pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code,* a demand for settlement or offer to compromise is made on a patient's behalf, the demand or offer shall be accompanied by an authorization to disclose medical information to persons or organizations insuring, responsible for, or defending professional liability that the certificate holder may incur. The authorization shall be in accordance with Section 56.11 and shall authorize disclosure of that information that is necessary to investigate issues of liability and extent of potential damages in evaluating the merits of the demand for settlement or offer to compromise.

Notice of any request for medical information made pursuant to an authorization as provided by this section shall be given to the patient or the patient's legal representative. The notice shall describe the inclusive subject matter and dates of the materials requested and shall also authorize the patient or the patient's legal representative to receive, upon request, copies of the information at his or her expense.

Nothing in this section shall be construed to waive or limit any applicable privileges set forth in the Evidence Code except for the disclosure of medical information subject to the patient's authorization. Nothing in this section shall be construed as authorizing a representative of any person from whom settlement has been demanded to communicate in violation of the physician-patient privilege with a treating physician, *or to communicate in violation of the psychotherapist-patient privilege with a treating licensed marriage and family therapist,* except for the medical information request.

The requirements of this section are independent of the requirements of Section 364 of the Code of Civil Procedure.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 578 **VERSION:** AMENDED APRIL 1, 2013

AUTHOR: WYLAND **SPONSOR:** CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)

RECOMMENDED POSITION: NONE

SUBJECT: MARRIAGE AND FAMILY THERAPISTS: UNPROFESSIONAL CONDUCT

Existing Law:

1) Outlines several provisions that constitute unprofessional conduct of a marriage and family therapist. (Business and Professions Code (BPC) §4982)

2) Allows the Board to deny an application for licensure or registration as a marriage and family therapist, and allows the Board to suspend or revoke a marriage and family therapist license or registration if there is a violation of the unprofessional conduct provisions. (BPC §4982)

3) Provides that it is unprofessional conduct to engage in gross negligence or incompetence in the performance of marriage and family therapy. (BPC §4982(d))

4) Provides that it is unprofessional conduct to intentionally or recklessly cause physical or emotional harm to any client. (BPC §4982(i))

5) Provides that it is unprofessional conduct to engage in any type of sexual relations with a client or former client within two years of terminating therapy. (BPC §4982(k))

This Bill:

1) Adds engaging in certain types of dual relationships with a patient to the list of provisions that may be considered unprofessional conduct for a marriage and family therapist licensee or registrant. (BPC §4982(ac))

2) Clarifies that dual relationships that constitute unprofessional conduct are relationships that are likely to impair professional judgment or lead to exploitation of the patient. (BPC §4982(ac))

3) Defines a dual relationship as one where the therapist and the patent engage in a separate and distinct relationship at the same time as the therapeutic relationship, or within a reasonable period of time following the therapeutic relationship. (BPC §4982(ac))

4) Preserves the unprofessional conduct statute provision §4982(k), which prohibits engaging in sexual relations with a client, or a former client within two years following termination of therapy. (BPC §4982(ac))

Comment:

1) **Background.** The Board currently takes disciplinary action on LMFT licensees or registrants for unprofessional conduct if it determines that they have engaged in an inappropriate dual relationship. Current law does not define an inappropriate dual relationship; instead, the Board typically cites unprofessional conduct section 4982(d) (gross negligence or incompetence) and/or section 4982(i) (intentionally or recklessly causing physical/emotional harm to the client). If the dual relationship involved sexual conduct, the Board would cite section 4982(k) (sexual relations with a client).

2) **Author's Intent.** The author's office notes that since the Board takes disciplinary action against licensees for inappropriate dual relationships, the law should state specifically that certain types of dual relationships are unprofessional conduct, and should also clarify which types of dual relationships are considered inappropriate.

3) **Prior Case.** The author's office refers to a recent disciplinary case as an example of the need to clarify in law that certain types of dual relationships constitute unprofessional conduct. During this case, which occurred in 2011, the licensee had allegedly engaged in an inappropriate dual relationship. However, the presiding administrative law judge dismissed the case partially because the Board's subject matter expert testified that he believes all dual relationships are unethical and could not think of any dual relationship that did not harm a client. The administrative law judge stated that this testimony contradicted professional standards.

4) **California Board of Psychology.** The California Board of Psychology indirectly defines inappropriate dual relationships in its licensing law by incorporating the American Psychological Association's (APA's) "Ethical Principals and Code of Conduct" by reference into its law. The Psychology Board's statute states that the standards of ethical conduct outlined in this document are to be applied by the board as the accepted standard of care in all board enforcement policies and disciplinary cases. (BPC §2936)

   The APA's June 1, 2010 version of this document, Section 3.05, states the following:

   "A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists. Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical."

   The Board of Psychology statute that references this document, as well as Section 3.05 of the June 1, 2010 version of the APA document, which discusses multiple relationships, can be found in **Attachments A** and **B**, respectively.

5) **Other State Licensing Boards.** The bill's sponsor, CAMFT, has provided the following examples of other state licensing boards that address dual relationships in their unprofessional conduct statute:

   - **Arizona:** Chapter 33 (Behavioral Health Professionals) Title 32-325(12) ""Unprofessional conduct" includes the following: (y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental."

- **Vermont:** Chapter 61, Title 26 (Clinical Social Workers, Professions and Occupations) section 3210- "The following conduct…by a licensed social worker constitutes unprofessional conduct..: (9) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client; (10) failing to take steps to protect a client and to set clear, appropriate, and culturally sensitive boundaries, in instances where dual or multiple relationships are unavoidable.."

- **Kansas:** Board of Behavioral Sciences, Social Workers, Section 102-2-7: "Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct: (tt) engaging in a dual relationship with a client, supervisee, or student."

6) Other Board Licensees. This bill clarifies inappropriate dual relationships in the unprofessional conduct provisions of marriage and family therapist licensing law, but it does not add this provision to licensing laws for the Board's other three license types (licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors). If the Board decides to support this proposed amendment, it may wish to consider if it would also be appropriate for inclusion in the unprofessional conduct sections of its other license categories.

7) Support and Opposition.

Support:

- California Association of Marriage & Family Therapists (Sponsor)

Opposition:

- None on file.

8) History

2013

Apr. 1	From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
Mar. 11	Referred to Com. on B., P. & E.D.
Feb. 25	Read first time.
Feb. 24	From printer. May be acted upon on or after March 26.
Feb. 22	Introduced. To Com. on RLS. for assignment. To print.

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9) Attachments

Attachment A: Business and Professions Code Section 2936 (Board of Psychology Statute)

Attachment B: American Psychological Association "Ethical Principles of Psychologists and Code of Conduct," effective June 1, 2010 (Section 3.05 – Multiple Relationships)

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AMENDED IN SENATE APRIL 1, 2013

SENATE BILL No. 578

Introduced by Senator Wyland

February 22, 2013

An act to amend Section 4982 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 578, as amended, Wyland. Marriage and family therapists: unprofessional conduct.

Existing law, the Licensed Marriage and Family Therapist Act, provides for the licensure or registration and the regulation of marriage and family therapists by the Board of Behavioral Sciences, and makes a violation of the law a misdemeanor. Existing law authorizes the board to deny a license or registration or to suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct, which, among other things, includes engaging in sexual relations with a current or former client within a specified period of time.

This bill would specify that unprofessional conduct includes engaging in a dual relationship~~, as described,~~ with a patient that is ~~reasonably~~ likely to impair his or her professional judgment or lead to exploitation of the patient. The bill describes a dual relationship as a separate and distinct relationship between a marriage and family therapist and his or her patient that occurs simultaneously with the therapeutic relationship or within a reasonable period of time following the termination of the therapeutic relationship. ~~This bill would provide that when a dual relationship occurs and cannot be avoided, a marriage and~~

~~family therapist shall take appropriate professional precautions to ensure that his or her judgment is not impaired and the patient is not exploited.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4982 of the Business and Professions Code is amended to read:

4982. The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(*l*) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern, associate clinical social worker, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one’s competence, as established by one’s education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one’s supervision or control to perform, or permitting the trainee or

registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

(aa) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(ab) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ac) Engaging in a dual relationship with a patient that is ~~reasonably~~ likely to impair his or her professional judgment or lead to exploitation of the patient. For purposes of this subdivision, a dual relationship occurs when a marriage and family therapist and his or her patient engage in a separate and distinct relationship

either simultaneously with the therapeutic relationship, or within a reasonable period of time following the termination of the therapeutic relationship. ~~If a dual relationship occurs and cannot be avoided, a marriage and family therapist shall take appropriate professional precautions to ensure that his or her judgment is not impaired and that the patient is not exploited. A violation of this subdivision shall not be subject to Section 4983.~~ *Nothing in this subdivision shall be construed to alter or affect the prohibitions of subdivision (k).*

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Attachment A
Business and Professions Code
Board of Psychology

§2936.

The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.
To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affair's Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:
Board of Psychology
2005 Evergreen Street, Suite 1400
Sacramento, California 95815-3894"

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AMERICAN PSYCHOLOGICAL ASSOCIATION

ETHICAL PRINCIPLES OF PSYCHOLOGISTS AND CODE OF CONDUCT

Adopted August 21, 2002
Effective June 1, 2003

With the 2010 Amendments
Adopted February 20, 2010
Effective June 1, 2010

origin, religion, sexual orientation, disability, language, or socioeconomic status.

3.04 Avoiding Harm

Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

3.05 Multiple Relationships

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

(b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.

(c) When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur. (See also Standards 3.04, Avoiding Harm, and 3.07, Third-Party Requests for Services.)

3.06 Conflict of Interest

Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as psychologists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

3.07 Third-Party Requests for Services

When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality. (See also Standards 3.05, Multiple Relationships, and 4.02, Discussing the Limits of Confidentiality.)

3.08 Exploitative Relationships

Psychologists do not exploit persons over whom they have supervisory, evaluative, or other authority such as clients/patients, students, supervisees, research participants, and employees. (See also Standards 3.05, Multiple Relationships; 6.04, Fees and Financial Arrangements; 6.05, Barter With Clients/Patients; 7.07, Sexual Relationships With Students and Supervisees; 10.05, Sexual Intimacies With Current Therapy Clients/Patients; 10.06, Sexual Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients; 10.07, Therapy With Former Sexual Partners; and 10.08, Sexual Intimacies With Former Therapy Clients/Patients.)

3.09 Cooperation With Other Professionals

When indicated and professionally appropriate, psychologists cooperate with other professionals in order to serve their clients/patients effectively and appropriately. (See also Standard 4.05, Disclosures.)

3.10 Informed Consent

(a) When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code. (See also Standards 8.02, Informed Consent to Research; 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

(b) For persons who are legally incapable of giving informed consent, psychologists nevertheless (1) provide an appropriate explanation, (2) seek the individual's assent, (3) consider such persons' preferences and best interests, and (4) obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law. When consent by a legally authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.

(c) When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

(d) Psychologists appropriately document written or oral consent, permission, and assent. (See also Standards 8.02,

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 555 **VERSION:** AMENDED MARCH 19, 2013

AUTHOR: SALAS **SPONSOR:** AUTHOR

RECOMMENDED POSITION: NONE

SUBJECT: PROFESSIONS AND VOCATIONS: MILITARY AND VETERANS

Existing Law:

1) Requires each board under DCA to incorporate, through regulation, methods of evaluating education, training, and experience obtained in the military that is applicable to that board's licensure requirements. (Business and Professions Code (BPC) §35)

2) Requires these regulations to specify how applicable military education, training, and experience may be used to meet the licensing requirements. (BPC §35)

3) Requires each board to consult with the Department of Veterans Affairs and the Military Department before adopting the required regulations. (BPC §35)

4) Requires healing arts boards under the Department of Consumer Affairs (DCA) to provide methods of evaluating education, training, and experience obtained in military service if the training is applicable to the requirements of the profession. (Business and Professions Code (BPC) §710)

This Bill:

1) Requires a board under DCA to consider any relevant training an applicant received in the military toward licensing requirements. (BPC §35(b))

2) Allows a board to consult with the Department of Veterans Affairs and the Military Department when evaluating whether training received in the military is applicable to that board's licensing requirements. (BPC §35(b))

Comment:

1) **Intent.** This bill is part of a larger federal effort to improve the lives of military families. As of June 2011, post 9/11 veterans of the military had an unemployment rate of 13.3 percent, but have often gained education, training, and experience in their military service that can be transferred to a licensed profession.

2) **Current Board Procedure.** The Board has very specific requirements for education and experience in its licensing laws. Currently, if an applicant for licensure or registration had military education and experience, the Board would conduct a review to determine whether or not it was substantially equivalent to current licensing requirements. This would be done on a case by case basis, depending on the specific characteristics of the individual's education and experience.

The Board is not aware of specific circumstances in which an individual had military education or experience. This is not tracked by the Board and there is not a common provider of military education or experience that the Board sees cited on incoming applications. Occasionally, the Board sees supervised experience that was obtained out of the country. This experience may be accepted by the Board if the Board can determine that the experience was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed at least two years in his or her current jurisdiction and is in good standing.

3) **Implementation.** If this bill was implemented, it would be essential that the Board be provided with a direct contact person at the Department of Veteran's Affairs and the Military Department who would be able to assist its evaluators with questions about military education and experience on an as-needed basis.

4) **Previous Legislation.** There were two successful legislative efforts last year to make licensing easier for military members and their spouses.

- AB 1588 (Chapter 742, Statutes of 2012) requires the Board to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active military duty.

- AB 1904 (Chapter 399, Statues of 2012) requires the Board to expedite the licensing process of an applicant who is a spouse of an active duty military member assigned to California, if they hold a current license for that profession in another state.

5) **Current Legislation.**

- AB 186 (Maienschein) would require a board to issue a provisional license to a military spouse if he or she is eligible for an expedited license.

- AB 213 (Logue) would require a board that accredits or approves schools offering education course credits toward licensing requirements to require a school seeking accreditation or approval to submit proof that it has procedures in place to evaluate an applicant's military education, training and experience toward completion of an educational program designed to qualify a person for licensure.

- AB 1057 (Medina) would require a board to inquire on all licensure applications if the applicant serves or has served in the military.

6) **Support and Opposition.**

Support:

- None on file.

Opposition:

- None on file.

7) **History**

2013

Mar. 20	Re-referred to Com. on B.,P. & C.P.
Mar. 19	Referred to Coms. on B.,P. & C.P. and V.A. From committee chair, with author's amendments: Amend, and re-refer to Com. on B.,P. & C.P. Read second time and amended.
Feb. 21	From printer. May be heard in committee March 23.
Feb. 20	Read first time. To print.

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 555

Introduced by Assembly Member Salas

February 20, 2013

An act *to amend Section 35 of the Business and Professions Code,* relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 555, as amended, Salas. Professions and vocations: military and veterans.

Existing law provides for the licensure and regulation of various professions and ~~vacations~~ *vocations* by boards within the Department of Consumer Affairs. *Existing law requires these boards to adopt rules and regulations to provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated, and to specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated.*

This bill would ~~state the intent of the Legislature to enact legislation that would streamline the licensure process of various professions and vocations for veterans and members of the military separating from service.~~ *require a board to consider any relevant training an applicant for a license received while serving in the armed services of the United States for purposes of satisfying the requirements for a license, if applicable to the requirements for the particular business, occupation, or profession regulated by the board. This bill would also authorize a board to consult with the Department of Veterans Affairs and the*

Military Department when evaluating whether training acquired during service in the armed services of the United States is applicable to requirements for the license an applicant seeks.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 35 of the Business and Professions Code is amended to read:

35. *(a)* It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates.

(b) A board provided for in this code shall consider, and may accept, any relevant training an applicant for a license received while serving in the armed services of the United States for purposes of satisfying the requirements for a license, if applicable to the requirements for the particular business, occupation, or profession regulated by the board. A board may consult with the Department of Veterans Affairs and the Military Department when evaluating whether training acquired during service in the armed services of the United States is applicable to requirements for the license an applicant seeks.

~~SECTION 1. It is the intent of the Legislature to enact legislation that would streamline the licensure process of various~~

~~professions and vocations for veterans and members of the military separating from service.~~

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Board of Behavioral Sciences

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
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www.bbs.ca.gov

Memo

To: Policy and Advocacy Committee **Date:** April 11, 2013

From: Christina Kitamura
Board of Behavioral Sciences **Telephone:** (916) 574-7830

Subject: **Therapist Mandated Reporting of Sexual Activity of Minors**

This is a discussion item on an issue regarding therapist mandated reporting of sexual activity of minors, presented by Benjamin Caldwell at the February 2013 Board Meeting.

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Board of Behavioral Sciences

Memo

1625 North Market Blvd., Suite S-200
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To: Committee Members **Date:** April 11, 2013

From: Rosanne Helms
Legislative Analyst **Telephone:** (916) 574-7897

Subject: Legislative Update

The Board is currently pursuing the following legislative proposals:

AB 404 (Eggman): Retired Licenses
This bill would clarify the law regarding eligibility for a retired license. The amendment would state that a licensee is eligible for a retired license if he or she holds a current, active license, or an inactive license, if the license is in good standing. It would also reduce the timeline allowed to restore a retired license to active status from five years to three years.

Status: This bill has passed the Assembly Committee on Business, Professions, and Consumer Protection, and has been referred to the Assembly Appropriations Committee.

AB 428 (Eggman): LMFT and LCSW Applicant Remediation of Coursework
This bill would amend LMFT licensing law to allow an LMFT applicant whose degree is deficient in the alcoholism and other chemical substance dependency requirement, or the spousal or partner abuse assessment requirement, to remediate those deficiencies. Current law does not allow remediation. It would also amend LCSW licensing law to clarify that LCSW applicants may also remediate a deficiency in the spousal or partner abuse assessment coursework.

Status: This bill has been referred to the Assembly Committee on Business, Professions, and Consumer Protection.

AB 451 (Eggman): LMFT and LPCC Out-of-State Applicant Requirements
Licensing requirements for out-of-state LMFT and LPCC applicants are set to change on January 1, 2014. However, the Board has concerns that the new out-of state requirements may be too stringent, restricting portability of these license types to California.

This bill extends the effective date of the new education requirements for out-of-state licensees from January 1, 2014 to January 1, 2015. This allows the Board additional time to carefully consider solutions to this problem which would increase portability of licenses while maintaining public protection.

Status: This bill has passed the Assembly Committee on Business, Professions, and Consumer Protection, and has been referred to the Assembly Appropriations Committee.

AB 958 (Jones): Child Custody Evaluators

This bill would specify that the Board may access a child custody evaluation report for the purpose of investigating allegations that one of its licensees, while serving as a child custody evaluator, engaged in unprofessional conduct in the creation of the report. Currently, the law does not give the Board direct access to the child custody evaluation report. This leaves the Board unable to investigate allegations of unprofessional conduct of its licensees while they are serving as a custody evaluator, even though the Board is mandated to do so by law.

Status: This bill has been referred to the Assembly Judiciary Committee.

SB 821 (Senate Business, Professions, and Economic Development Committee): Omnibus Legislation

This bill makes minor, technical, and non-substantive amendments to add clarity and consistency to current Board licensing law.

Status: This bill has been referred to the Senate Committee on Business, Professions, and Economic Development.

Board of Behavioral Sciences

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Memo

To: Committee Members **Date:** April 4, 2013

From: Rosanne Helms, Legislative Analyst **Telephone:** (916) 574-7897

Subject: **Rulemaking Update**

APPROVED REGULATORY PROPOSALS

Title 16, CCR Sections 1811, 1870, 1887.3: Revision of Advertising Regulations, Two-Year Practice Requirement for Supervisors of Associate Social Workers (ASWs), and HIV/AIDS Continuing Education Course for LPCCs

This proposal makes three types of revisions to current Board regulations:

1. Revises the regulatory provisions related to advertising by Board licensees.

2. Revises current Board regulations to include LPCCs in the requirement to take a one-time, seven hour continuing education course covering the assessment and treatment of people living with HIV/AIDS.

3. Requires supervisors of ASWs to be licensed for two years prior to commencing any supervision.

This proposal was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on January 9, 2013. It became effective on **April 1, 2013.**

Title 16, CCR Sections 1803, 1845, 1858, 1881; Add Sections 1823, 1888.1, SB 1111: Enforcement Regulations

This proposal is part of an effort by DCA for healing arts boards to individually seek regulations to implement those provisions of SB 1111 and SB 544 (part of DCA's Consumer Protection Enforcement Initiative) that do not require statutory authority.

The intent of SB 1111, which failed passage in 2010, and SB 544, which failed passage in 2011, was to provide healing arts boards under DCA with additional authority and resources to make the enforcement process more efficient. These regulations propose delegation of certain functions to the executive officer, required actions against registered sex offenders, and additional unprofessional conduct provisions to aid in the enforcement streamlining effort.

This proposal was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on March 25, 2013. It becomes effective on **July 1, 2013.**

Title 16, CCR Section 1888 and Disciplinary Guidelines

This proposal makes several revisions to the Disciplinary Guidelines, which are incorporated by reference into Board regulations.

This proposal was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on April 2, 2013. It becomes effective on **July 1, 2013.**

SUBMITTED REGULATORY PROPOSALS

Title 16, CCR Section 1833: Regulations to Implement SB 363 (Marriage and Family Therapist Intern Experience)

SB 363 (Chapter 384, Statutes of 2011) limited the number of client-centered advocacy hours for a marriage and family therapist intern to 500 hours.

This proposal deletes a provision of Board regulations which conflicts with SB 363 and that is no longer needed due to the new legislative provisions enacted by SB 363. This amendment was approved by the Board at its meeting on November 9, 2011. This proposal also deletes an outdated provision in Section 1833 regarding crisis counseling on the telephone, which directly conflicts with telehealth provisions in LMFT licensing law. This amendment was approved by the Board at its meeting on February 29, 2012.

This proposal was submitted to OAL and is awaiting final approval.

Title 16, CCR Sections 1805, 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, 1877; Add Sections 1805.01, 1825, 1826, 1830, 1878: Regulations to Implement SB 704 (Examination Restructure)

This proposal revises current Board regulations in order to be consistent with the statutory changes made by SB 704 (Chapter 387, Statutes of 2011), which restructures the examination process for LMFT, LCSW, and LPCC applicants.

This proposal was approved by the Board at its meeting on February 28, 2013. It has been submitted to OAL and published in its California Regulatory Notice Register on March 15, 2013. The proposal is now in the 45-day public comment period. The public hearing for this proposal will be held on April 30, 2013.

PENDING REGULATORY PROPOSALS

Title 16, CCR Sections 1887, 1887.1, 1887.3, 1887.4, 1887.11; Add Sections 1887.41, 1887.42, 1887.43; Delete Sections 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.13, 1887.14: Continuing Education

This proposal makes a number of changes to the Board's continuing education program. These changes are proposed based on the recommendations of the Board's Continuing Education Committee, which was formed in 2011 in response to a number of concerns raised about continuing education.

This proposal was approved by the Board at its meeting on February 28, 2013. Staff is currently preparing the documents necessary for submittal to OAL for publication in its Notice Register. This submittal will begin the 45-day public comment period.

Title 16, CCR Section 1888 and Disciplinary Guidelines: SB 1441: Uniform Standards for Substance Abuse

This is a regulatory proposal that the Department of Consumer Affairs (DCA) and the Legislature is asking all healing arts licensing boards to run. It creates uniform standards for discipline that the boards must abide by in cases of licensee or registrant substance abuse. This proposal was prompted by a concern at the Legislature that there is a lack of a consistent policy across DCA's healing arts boards for dealing with licensees or registrants who abuse drugs and alcohol.

This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

Title 16, CCR Section 1820.5; Add Sections 1820.6 and 1820.7: Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

This proposal clarifies the law regarding requirements for LPCCs to treat couples and families. It also outlines a process by which LPCCs and PCC interns receive Board confirmation that they have met the requirements to treat couples and families.

This proposal was approved by the Board at its meeting on November 28, 2012. Next, staff will submit it to OAL for publication in its Notice Register, which will begin the 45-day public comment period.

Title 16, CCR Sections 1820, 1820.1, 1820.2, 1820.3, Exemptions for Sponsored Free Health Care Events

As a result of AB 2699 (Chapter 270, Statutes of 2010), beginning January 1, 2011, health care practitioners licensed or certified in good standing in another state may be temporarily exempted from California licensing requirements under certain conditions. However, before this law can be implemented, regulations must be approved by each healing arts board under DCA which specify the methods of implementation. This proposal was approved by the Board at its meeting on November 9, 2011 and will be submitted to OAL for initial notice in summer 2013.

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